To Spike Williams

with all our love

and affection —

Carolyn, Chuck, Keith

and Margot Kapinske

Augt, 1949

DISCOURSES

CONCERNING

GOVERNMENT.

BY

Algernon Sidney, Esq;

To which are added,

MEMOIRS of his LIFE,

AND

An APOLOGY for HIMSELF,

Both Now first published,

And the latter from his Original Manuscript.

The THIRD EDITION.

With an ALPHABETICAL INDEX of the principal Matters.



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THE

PREFACE

To the EDITION in 1698.

HOW highly the writings of wiſe and good men concerning government have been eſteemed in all ages; the teſtimony of hiſtory, and the preſervation of ſo many books compoſed by the antients on that ſubject, do ſufficiently manifeſt. And it may be truly ſaid, that unleſs men have utterly abandoned themſelves to all that is deteſtable, they have ſeldom attempted to detract from the worth of the aſſertors of liberty, tho' ambition, and other paſſions, have influenced them to act in oppoſition to it. When Auguſtus had ſurpriſed a young Roman, who was related to him, reading a political diſcourſe of Cicero, he commended his judgment in that choice. The hiſtory of France, written by the preſident de Thou, with a ſpirit of freedom, that might have been worthy of thoſe who had lived before the violation of their liberty, has been ſo generally valued by men of all ranks in that nation, that it is hard to find a book on any important ſubject, which has had ſo many editions. And the juſt eſteem, that the emperor Charles the Fifth, made of the memoirs of Philip de Commines (tho' that author has given ſo many inſtances of his deteſtation of tyranny) may be enough to put this matter out of diſpute. But if all other proof were wanting, the implacable hatred, and unwearied induſtry of the worſt of men to ſuppreſs ſuch writings, would abundantly teſtify their excellency.

That nations ſhould be well informed of their rights, is of the moſt abſolute neceſſity; becauſe the happineſs or infelicity of any people intirely depends upon the enjoyment or deprivation of liberty; which is ſo invincibly proved in the following diſcourſes, that to endeavour to make it more clear, would be an unpardonable preſumption.

If any man think the publication of this work to be unſeaſonable at this time; he is deſired to conſider, that as men expect good laws only from good government, ſo the reign of a prince, whoſe title is founded upon the principle of liberty, which is here defended, cannot but be the moſt proper, if

not

not the only time to inform the people of their juſt rights; that, from a due ſenſe of their ineſtimable value, they may be encouraged to aſſert them againſt the attempts of ill men in time to come.

'Tis not neceſſary to ſay any thing concerning the perſon of the author. He was ſo well known in the world, ſo univerſally eſteemed by thoſe who knew how to ſet a juſt value upon true merit, and will appear ſo admirable in the following diſcourſes, as not to ſtand in need of a flattering panegyric. But it may not be amiſs to ſay ſomething of the diſcourſes now publiſhed.

The paper delivered to the ſheriffs, immediately before his death, informs us, that he had left a large and a leſſer treatiſe, written againſt the principles contained in Filmer's book; and that a ſmall part of the leſſer treatiſe had been produc'd for evidence againſt him at his tryal. 'Tis there alſo ſaid, that the leſſer treatiſe neither was, nor probably ever ſhould have been finiſhed. This therefore is the large work mentioned in that paper, and not the leſſer, upon part of which the wicked ſentence pronounc'd and executed againſt him was grounded.

It remains only to add a few words for ſatisfaction of the public, that theſe diſcourſes are genuine. And here I ſhall not need to ſay, that they were put into the hands of a perſon of eminent quality and integrity, by the author himſelf; and that the original is, in the judgment of thoſe who knew him beſt, all written by his own hand: his inimitable manner of treating this noble ſubject is inſtead of a thouſand demonſtrations, that the work can belong to no other than the great man whoſe name it bears.

Thus far the Preface to the Edition, which was publiſh'd in 1698.

With reſpect to this third Edition of theſe diſcourſes, the editor aſſures the public, that great care has been taken to correct the errors of the former impreſſions; and particularly, that the references, which for the moſt part were falſe, are here rectified. It is almoſt unneceſſary to tell the Reader, that the Memoirs of the Author's Life, and the excellent Apology for himſelf, are now firſt printed, and the latter from his Original Manuſcript.

MEMOIRS

OF

Algernon Sidney, Eſq;

THO' there is nothing more uſeful and entertaining than the lives of great and excellent men, yet it often happens, that, through the neglect of their friends and contemporaries, proper materials are wanting: and thus it is in the preſent caſe. One cannot but wonder, that the life of our author, who was a man of ſuch excellent abilities, ſuch a lover of liberty, and who died for the glorious cauſe, was never attempted by any of his intimate friends, and ſuch as were acquainted with the moſt remarkable paſſages concerning him. To retrieve this error as much as we can, we ſhall lay together in one view, what can now be gathered from various authors, who occaſionally mention the name and actions of colonel Sidney: and it is to be hoped, that this ſhort account, though very imperfect, may do ſome juſtice to the memory of that noble perſon, and give ſome inſtruction to the reader.

Algernon Sidney, Eſq; deſcended from a very antient and honourable family, and was ſecond ſon of Robert the Earl of Leiceſter, by Dorothy, eldeſt daughter of Henry Piercy earl of Northumberland (*a*); to whom his lordſhip was married in the year 1618. The exact year when our author was born, is not certain; but it was moſt probably about the year 1622. His noble father was very careful to give him a good education; and in 1632. when he went ambaſſador to Denmark, took his ſon with him; as alſo, when he was ambaſſador to the king of France in 1636. and the counteſs, his mother, in a

(*a*) Collins's Peerage of England, and Memoirs of the lives and actions of the Sidneys.

letter to the earl then at Paris, acquaints his lordſhip, that ſhe hears her ſon much commended by all that came from thence; and that one, who ſpake well of very few, ſaid, he had a huge deal of "wit," and much "ſweetneſs of nature" (*b*). Upon the breaking out of the rebellion in Ireland, the latter-end of the year 1641. he had a commiſſion for a troop of horſe in the regiment of his father, who was then lord-lieutenant of that kingdom; and he went over thither with his eldeſt brother Philip lord viſcount Liſle, diſtinguiſhing himſelf upon all occaſions with great gallantry againſt the rebels (*c*). In the year 1643. he had the king's permiſſion to return to England; for which purpoſe the earl his father gave him likewiſe a licence, dated at Oxford June 22. that year; but, landing in Lancaſhire in Auguſt following, he was, by order of parliament, brought up in cuſtody to London, where he was prevailed on to take a command under them: and on the 10th of May 1644. the earl of Mancheſter, major-general of ſeveral counties, conſtituted him captain of a troop of horſe in his own regiment. His brother the lord viſcount Liſle, being ſoon after appointed lieutenant-general of Ireland, and general of the forces there, gave him the command of a regiment of horſe to ſerve in the expedition thither: and it appears by the MS. journal of the earl his father (*d*), that he was likewiſe lieutenant-general of the horſe in Ireland, and governor of Dublin; and that, before he went into that kingdom, he had the government of Chicheſter, and was in the battle at York, and ſeveral other engagements. In the ſame journal the earl writes as follows (*e*); "On the 8th of April 1647. early in the "morning, the houſe of commons being then thin, and few of my "ſon's friends preſent, it was moved by Mr. Glyn the recorder, that "colonel Jones ſhould be made governor of Dublin in chief, and "not deputy-governor to Algernon Sidney, pretending that Jones "would not go, unleſs he might be governor; which was not true, "Jones having accepted of the place of deputy-governor from the "committee at Derby-houſe, who had alſo appointed the lord Liſle "to commiſſion his brother Algernon to be governor of Dublin, "which he had done before he went into Munſter. This motion "of the recorder was ſeconded by old Sir Henry Vane, who pre-"tended, that his conſcience moved him to be of opinion, that, "ſince the houſe had thought proper to recall the lord Liſle, it was "not fit to let his brother, Algernon Sidney, remain governor of ſo "important a place as Dublin. Sir William Armyn, and others, "oppoſed this motion, alledging, that, if they had uſed one brother "ill, they ought not to do injuſtice to the other, who had ſo well "deſerved of them. But it was carried againſt him, and the go-"vernment was conferred on Jones. After which reſolution, it was "moved, that "ſome" recompence might be given to Algernon "Sidney, according to his merit; to which the houſe aſſented with-"out oppoſition." And on the 7th of May colonel Sidney had the thanks of the houſe for his good ſervices in Ireland (*f*); and was after-

(*b*) Letters and Memorials of State, Vol. II. page 445. (*c*) Collins's Memoirs, p. 148. 150. (*d*) Idem, p. 150. (*e*) Ibid. p. 151. (*f*) Whitelocke's Memorials, p. 246. Edit. London. 1732.

wards

wards made governor of Dover. In January 1648. he was nominated one of king Charles's judges (*b*), though he did not ſit among them: what his reaſons were for declining this, we know not (*i*). 'Tis manifeſt that he was, both by inclination and principle, a zealous republican; and, on that account, a violent enemy to Oliver Cromwell, when he aſſumed to himſelf the government (*k*), to which, as well as to that of Richard, his ſucceſſor, he was abſolutely irreconcileable. But, upon the reſignation of Richard, the long parliament being reſtored in May 1659. and having paſſed a declaration, "to "ſecure the liberty and property of the people, both as men and "chriſtians, and that without a ſingle perſon, kingſhip, or houſe of "lords, and to uphold the magiſtracy and the miniſtry" (*l*), he adhered to them, and was appointed one of the council of ſtate, with the lord Fairfax, Bradſhaw, Sir Henry Vane, general Ludlow, Fleetwood, Mr. Neville, and others (*m*). On the 5th of June he was likewiſe nominated, with Sir Robert Honeywood and Bulſtrode Whitelocke, Eſq; to go commiſſioners to the Sound, in order to mediate a peace between the kings of Sweden and Denmark. But Mr. Whitelocke was not willing to undertake this ſervice, eſpecially being joined with thoſe, who, he knew, would expect precedency of him who had been formerly ambaſſador extraordinary to Sweden alone; and therefore he endeavoured to excuſe himſelf by reaſon of his old-age and infirmities: and accordingly Mr. Thomas Boone was appointed in his room. The three plenipotentiaries ſet out for the Sound in July following, and arrived at Elſineur on the 21ſt of that month; where they were attended by admiral Montagu, afterwards earl of Sandwich, who, in proſpect of a revolution in favour of Charles II. to whom he was ſecretly engaged, reſolved to return to England the month following with the whole fleet (*n*). Colonel Sidney, who was averſe to that reſolution, wrote to the council of ſtate from Copenhagen, to complain of the admiral's conduct in that point. His letters to his father, printed in the "2d volume of the Letters and Memorials of State of "the Sidney family," and thoſe written by him in conjunction with the other plenipotentiaries, publiſhed among ſecretary Thurloe's ſtate papers, Vol. II. give us a very diſtinct account of his negotiations; which will be beſt repreſented in his own words. In a letter to his father, from Copenhagen, November 5th 1659. (*o*), he writes thus: "Before I undertook this employment, many difficulties did appear "unto me, and I have not found them leſs than I expected. The "ambition of the king of Sweden, and the weakneſs of the king of "Denmark, make theſe buſineſſes very difficult, that muſt be ſo "ordered, as to ſatisfy them both. The one hates every thing that "ſtops his conqueſts; and the other does not well underſtand the "ſtate of his own affairs. England is too far engaged with the "United Provinces, to aſſiſt Sweden in the Daniſh war; but, if he "make peace here, I think he will not be deſerted. Our buſineſs is

(*b*) Our authority for this article is taken from Echard's Hiſtory of England, p. 675. & 697. (*i*) See what he ſays himſelf in his tryal, p. 33. Edit. London. 1683. fol. (*k*) Whitelocke, p. 678. (*l*) Id. (*m*) Memorials of the Engliſh affairs, p. 680. (*n*) Thurloe's State Papers, Vol. II. p. 699. (*o*) Letters and Memorials of State, Vol. II. p. 683.

"now

" now brought to this, that the king of Sweden doth now offer to " make peace with the emperor, king of Poland, and elector of " Brandenburg; or to aſſiſt him againſt the emperor, if he will not " grant him peace upon the conditions of the Munſter treaty. All " are willing to offer their mediation, think their ſuperiors will give the " aſſiſtance of 4000 foot from each ſtate, as is deſired; but find not " themſelves furniſhed with powers to engage them in any ſuch treaty: " but, the thing agreeing with their judgments, they have all agreed to " repreſent it to their ſuperiors as a thing wherein they are concerned, " that the Swediſh intereſt in Germany be not deſtroyed, which will " certainly be, when he is aſſaulted by ſo many enemies, and not power- " fully aſſiſted; which he can expect to be from no others. Much " more is to be expected from France, than is deſired. The ambaſ- " ſador of that crown did lately ſhew me a letter from the cardinal " Mazarin, wherein he ſaid he has had ſeveral conferences with Don " Luys de Haro concerning the affairs of Germany; in which he " had declared, that, if the Auſtrian forces did not retire out of Po- " merania, it was reſolved a French army ſhould immediately enter " the empire, of which he had given the ambaſſador power to aſſure " the king of Sweden. Holland will not break openly with the " emperor; but we have hope, they will be brought to furniſh Sweden " with ſome money, and give that king liberty to raiſe ſome men " upon their frontiers. I have drawn this incloſed repreſentation of " the northern affairs, to be ſent unto the council. By the laſt let- " ters we received from them, liberty was granted unto us to return " home, if we thought it might conſiſt with the good of affairs here: " but we find ſo many inconveniencies in leaving this place at pre- " ſent, without ſome Engliſh miniſters, that we dare not return with- " out a command; but we intend, that one of us ſhould return im- " mediately, and to that end have choſen Mr. Boone. I did ſue for " that employment; but the princes, with whom we are to treat, " and our fellow-mediating miniſters, did not conſent; ſo that Sir " Robert Honeywood and I muſt ſtay, until we have further orders. " I do not know how our ſtay here will be underſtood; but, if it be " not thought of merit, I ſhall think I have to very little purpoſe " expoſed myſelf unto a great deal of trouble. I am in all things " uncertain how I ſhall diſpoſe of myſelf; but think, that, if I do " not return as ſoon as I can have an anſwer to the letters I now ſend, " the French ambaſſador and I ſhall make a journey into Poland, to " mediate for peace there, in which there is little doubt, if we can be " ſo happy as to ſee it eſtabliſhed here. I do not at all expect it in Ger- " many; all things there tend to a war; and I believe, by the next " ſummer, we ſhall ſee that country as much inflamed as ever. The " proteſtant princes, and the electors of Mentz and Colen, look upon " Sweden, France, and England, for aid. The emperor relies upon " his party. The treaty between Sweden and Poland is not yet be- " gun: they have ſpent eight or nine months in diſputes upon the " preliminaries; and, as I hear, the counts Magnus de la Garde and " Slippenbach have inſtructions to make ſuch haughty demands, as " do not well ſuit with the preſent condition of their maſter's affairs; " but he hath promiſed to reduce them all to ſuch a ſum of money

" for

" for the places he holds in Pruſſia, as the miniſter of the mediating " ſtates ſhall think reaſonable."

There are more letters concerning this mediation, in the ſame collection, which the curious reader may conſult. As things were at this time evidently tending to the reſtoration of Charles II. colonel Sidney wrote thus in the poſtſcript to another letter. " I do not ſay " any thing of my own intentions in relation to the changes that " are fallen out already, or the others that are daily expected. The " truth is, I know them not; the buſineſs is too difficult to judge of " at this diſtance; eſpecially not knowing what will be in my power " or choice. If I do not receive new orders, I ſhall return ſpeedily " home, and I ſhall then follow that way, which your lordſhip " ſhall command, and my beſt friends adviſe, as far as I can, with- " out breaking the rules of honour or conſcience; which I am ſure, " will never be expected from me by your lordſhip, nor thoſe, whoſe " opinion I conſider. While I am here, I ſerve England, and will, " with as much care and diligence as I can, endeavour to advance " its intereſts, and follow the orders of thoſe that govern it. I re- " ſerve the determination of other points to councils upon the place." His next letter is dated at Stockholm, June 16. 1660. in which he writes: 'I am now at the utmoſt point of my journey northward, and 'have nothing more in my thoughts, than to return to England, 'with as much expedition as I can; according to the liberty granted 'unto my collegue and me, by the council of ſtate. We could not 'think it at all reaſonable to leave the work, in which we were em- 'ployed, when we ſaw a certainty of accompliſhing it within a ſhort 'time; unleſs we had received a poſitive command. Now the 'peace is concluded, I think, we may very well juſtify making uſe 'of that conceſſion. I am here alone: my collegue intended to 'make the ſame journey; but the gout confined him unto his bed. I 'look upon all the powers, granted unto me, as extinguiſhed, by 'the coming in of the king; and do not take upon me to act any 'thing, as a public miniſter, in giving notice unto the crowns of 'Sweden, and Denmark, of the reſtitution of the antient govern- 'ment in England, and the proclaiming of the king. Upon this oc- 'caſion, I accept of a public audience, which is here offered unto 'me. I ſhould have avoided it upon all other occaſions. I am de- 'tained ſome days longer than I did expect; the queen and ſenate 'having been out of town, when I arrived here. I do not at all know 'in what condition I am there' [in England], 'nor what effects I 'ſhall find of general Monk's expreſſions of kindneſs towards me; 'and his remembrance of the antient friendſhip, that was between 'us: but the lord Fleetwood's letters to the ſenate, and private per- 'ſons here, mention diſcourſes, that he makes, much to my ad- 'vantage. I do receive neither more or leſs civility here than is or- 'dinary; unleſs the excuſes I receive, for receiving no more, may 'deſerve that name. I am in private told, they fear to offend the 'king, by any extraordinary expreſſions towards me. Your lord- 'ſhip may eaſily imagine how powerful that conſideration will be, 'when thoſe in my condition can pretend to no civilities, upon any

'other account. but as they are reſpects unto their ſuperiors and 'maſters.'

In his letter of July 22. 1660. (*p*) he obſerves, that he, and his collegue, had, the day before, taken their leave of the king of Denmark; and, that himſelf, was taking his way by Hamburgh, and Holland; but did not yet very well know, in what place he ſhould ſtay, until he heard further from England: "I did hope, ſays he, to his father," "that upon ſuch occaſions, as theſe, that have lately befallen "me, your lordſhip would have been pleaſed to ſend me ſome "commands and advices, how to diſpoſe of myſelf more particu-"larly, than by ſuch a one, as I had ſent over with letters." His father's anſwer to him, dated at London, Aug. 30. the ſame year, was as follows (*q*).

'Diſuſe of writing, hath made it uneaſy to me; age makes it 'hard; and the weakneſs of ſight and hand makes it almoſt impoſ-'ſible. This may excuſe me to every body, and particularly to you, 'who have not invited me much unto it; but rather have given me 'cauſe to think, that you were willing to ſave me the labour of 'writing, and yourſelf the trouble of reading my letters. For, 'after you had left me ſick, ſolitary, and ſad at Penſhurſt; and, 'that you had reſolved to undertake the employment, wherein you 'have lately been; you neither came to give a farewel nor did ſo 'much as ſend one to me, but only writ a wrangling letter or two, 'about money, &c. And, tho', both before and after your going 'out of England, you writ to divers other perſons; the firſt letter 'that I received from you, was dated, as I remember, the 13th of 'September; the ſecond in November; wherein you take notice of 'your mother's death: and, if there were one more, that was all, 'until Mr. Sterry came; who made ſuch haſte from Penſhurſt, that, 'coming very late at night, he would not ſtay to dine the next day, 'nor to give me time to write. It is true, that ſince the change of 'affairs here, and of your condition there, your letters have been 'more frequent. And, if I had not thought my ſilence better, 'both for you and myſelf, I would have written more than once or 'twice to you. But, tho', for ſome reaſons, I did forbear, I failed 'not to deſire others to write unto you; and with their own to con-'vey the beſt advice, that my little intelligence, and weak judgment, 'could afford; particularly, not to expect new authorities nor orders 'from hence; nor to ſtay in any of the places of your negotiation; 'not to come into England; much leſs, to expect a ſhip to be ſent 'unto you; or to think, that an account was or could be expected 'of you here, unleſs it were of matters very different from your 'tranſactions there: that it would be beſt for you, preſently to di-'veſt yourſelf of the character of a public miniſter; to diſmiſs all 'your train; and to retire into ſome ſafe place, not very near, nor 'very far from England, that you might hear from your friends ſome-'times. And for this I adviſed Hamburgh, where I hear you are, by 'your man Powel, or by them, that have received letters from you, with 'preſents

(*p*) Letters and Memorials of State, Vol. II. p. 695. (*q*) Familiar Letters written by the Right Hon. John late Earl of Rocheſter, and ſeveral other Perſons of Honour and Quality, p. 53. Edit. 1697.

'preſents of wine and fiſh, which I do not reproach nor envy. Your 'laſt letter to me had no date of time or place; but by another at 'the ſame time to Sir John Temple, of the 28th of July, as I re- 'member, ſent by Mr. Miſſenden, I gueſs, that mine was of the 'ſame date. By thoſe that I have had, I perceive, that you have 'been miſadvertiſed; for tho' I meet with no effects nor marks of 'diſpleaſure, yet I find no ſuch tokens or fruits of favour, as may 'give me either power, or credit, for thoſe undertakings, and good 'offices, which perhaps you expect of me. And now I am again 'upon the point of retiring to my poor habitation; having for my- 'ſelf no other deſign, than to paſs the ſmall remainder of my days 'innocently and quietly; and, if it pleaſes God, to be gathered in 'peace to my fathers. And, concerning you, what to reſolve in my- 'ſelf, or what to adviſe you, truly I know not; for you muſt give 'me leave to remember, of how little weight my opinions and coun- 'ſels have been with you, and how unkindly and unfriendly you 'have rejected thoſe exhortations and admonitions, which, in much 'affection and kindneſs, I have given you upon many occaſions, and 'in almoſt every thing, from the higheſt to the loweſt, that hath 'concerned you: and this you may think ſufficient to diſcourage 'me from putting my advices into the like danger. Yet ſomewhat 'I will ſay: and, firſt, I think it unfit, and perhaps, as yet unſafe, 'for you to come into England; for I believe Powell hath told you, 'that he heard, when he was here, that you were likely to be ex- 'cepted out of the general act of pardon and oblivion: and, tho' I 'know not what you have done or ſaid here or there, yet I have 'ſeveral ways heard, that there is as ill an opinion of you, as of any, 'even of thoſe that condemned the late king. And when I thought 'there was no other exception to you, than your being of the other 'party, I ſpoke to the general in your behalf, who told me, that 'very ill offices had been done you; but he would aſſiſt you as much 'as juſtly he could. And I intended then alſo to ſpeak to ſome- 'body elſe; you may gueſs whom I mean; but ſince that I have 'heard ſuch things of you, that, in the doubtfulneſs only of their 'being true, no man will open his mouth for you. I will tell you 'ſome paſſages, and you ſhall do well to clear yourſelf of them. 'It is ſaid, that the univerſity of Copenhagen brought their album 'unto you, deſiring you to write ſomething therein; and, that you 'did "ſcribere in albo' theſe words;

"——Manus hæc inimica tyrannis
"Enſe petit placidam ſub libertate quietem."

'And put your name to it. This cannot chooſe but be publicly 'known, if it be true. It is alſo ſaid, that a miniſter, who hath 'married a lady Laurence, here at Chelſea, but now dwelling at 'Copenhagen, being there in company with you, ſaid, "I think "you were none of the late king's judges, nor guilty of his death," 'meaning our king.' "Guilty! ſaid you: do you call that guilt? "why, it was the juſteſt and braveſt action, that ever was done in "England, or any-where elſe," with other words to the ſame effect.

It

'It is ſaid alſo, that you having heard of a deſign to ſeize upon you, 'or to cauſe you to be taken priſoner, you took notice of it to the 'king of Denmark himſelf, and ſaid, "I hear there is a deſign to "ſeize upon me; but who is it that hath that deſign? Eſt ce nôtre "bandit?" by which you are underſtood, to mean the king. Be-'ſides this, it is reported, that you have been heard to ſay many 'ſcornful and contemptuous things of the king's perſon and family, 'which, unleſs you can juſtify yourſelf, will hardly be forgiven or 'forgotten; for ſuch perſonal offences make deeper impreſſions, 'than public actions, either of war or treaty. Here is a reſident, as 'he calls himſelf, of the king of Denmark, whoſe name, I hear is 'Pedcombe; he hath viſited me, and offered his readineſs to give you 'any aſſiſtance in his power or credit, with the embaſſador Mr. Al-'field, who was then expected, and is now arrived here, and hath 'had his firſt audience. I have not ſeen Mr. Pedcombe ſince; but, 'within a few days, I will put him in mind of his profeſſion of 'friendſhip to you, and try what he can or will do. Sir Robert 'Honeywood is alſo come hither; and, as I hear, the king is gra-'ciouſly pleaſed to admit him to his preſence; which will be ſome-'what the better for you; becauſe then the exceptions againſt your 'employment, and negotiation, wherein you were collegues, will 'be removed, and you will have no more to anſwer for, than your 'own particular behaviour. I believe, Sir Robert Honeywood will 'be induſtrious enough, to procure ſatisfaction to the merchants in 'the buſineſs of money; wherein he will have the aſſiſtance of Sir 'John Temple, to whom I refer you for that and ſome other things. 'I have little to ſay to your complaints of your ſiſter Strangford's 'unequal returns to your affection and kindneſs; but that I am ſorry 'for it, and that you are well enough ſerved for beſtowing ſo much 'of your care where it was not due, and neglecting them to whom 'it was due; and I hope you will be wiſer hereafter. She and her 'huſband have not yet paid the thouſand pounds, whereof you are 'to have your part by my gift; for ſo, I think, you are to under-'ſtand it, tho' your mother deſired it: and if, for the payment 'thereof, your being in England, or in ſome place not far off, be 'neceſſary, as ſome pretend, for the ſealing of ſome writings, I 'think that, and other reaſons ſufficient to perſuade you to ſtay a 'while where you are, that you may hear frequently from your 'friends, and they from you. I am wholly againſt your going into 'Italy as yet, till more may be known of your condition, which, for 'the preſent, is hard; and I confeſs, that I do not yet ſee any more 'than this, that either you muſt live in exile, or very privately here, 'and perhaps not ſafely; for tho' the bill of indemnity be lately 'paſſed; yet, if there be any particular and great diſpleaſure 'againſt you, as I fear there is, you may feel the effects thereof 'from the higher powers, and receive affronts from the inferior. 'Therefore you were beſt to ſtay at Hamburgh, which, for a nor-'thern ſituation, is a good place and healthful. I will help you as 'much as I can, in diſcovering and informing you of what concerns 'you; tho', as I began, ſo I muſt end, with telling you, that write-'ing is now grown troubleſome to your affectionate Leiceſter.'

But

But colonel Sidney did not continue long at Hamburgh; for he was at Francfort upon the Main, on the 8th of September 1660. from whence he wrote to his father (*r*), being determined then for Italy; and we find him at Rome in November following, whence he wrote likewiſe to his father, on the 19th of that month, O. S. as follows (*s*): 'I think the counſel given me by all my friends, to 'keep out of England for a while, doth too clearly appear to have 'been good, by the uſage my companions have already received; 'and perhaps will be yet farther verified, by what they will find. 'Nothing doth ſeem more certain to me, than that I muſt either 'have procured my ſafety, by ſuch means as Sir Arthur Haſel-'rigg is ſaid to have uſed, or run the fortune of ſome others, 'who have ſhewed themſelves more reſolute. I hope my being 'here, will in a ſhort time ſhew, that the place was not ill 'choſen; and that, beſides the liberty and quiet, which is 'generally granted to all perſons here, I may be admitted into that 'company, the knowledge of which will very well recompenſe my 'journey. I was extremely unwilling to ſtay in Hamburgh, or any 'place in Germany, finding myſelf too apt to fall too deep into 'melancholy, if I have neither buſineſs nor company to divert me; 'and I have ſuch an averſion to the converſation and entertainments 'of that country, that, if I had ſtaid in it, I muſt have lived as a 'hermit, tho' in a populous city. I am here well enough at eaſe, 'and believe I may continue ſo, unleſs ſomebody from the court of 'England doth think it worth their pains to diſturb me. I ſee no-'thing likely to ariſe here to trouble me. I have already viſited 'ſeveral cardinals. To-morrow I intend to pay the ſame reſpect to 'the cardinal Gizi, nephew to the pope. He hath already granted 'me the liberty of waiting upon him, which was ſignified unto me 'by another eminent perſon of the ſame robe and degree. They 'are all generally civil, and I aſk no more.' He had hitherto received very little ſupport from his father; with whom he expoſtulates on that account, in a letter from Rome, of the 29th of December, 1660. O. S. wherein he writes thus (*t*): 'I hear from 'ſome of your friends, that your lordſhip hath been deſired to do 'that buſineſs for me, which hath been often mentioned, and that 'may be eaſily ſettled, upon the compoſure of that with the lord 'Strangeways; and your lordſhip's anſwer was, I had made a pro-'viſion for myſelf, and diſcharged you of that care. If there be no 'difference in living, but he that hath bread hath enough, I have 'ſome hopes of finding a proviſion for a longer time than I men-'tioned. If there be no reaſon for allowing me any aſſiſtance out 'of the family, as long as there is a poſſibility for me to live with-'out it, I have diſcharged you. If theſe helps are only to be given 'to thoſe, that have neither ſpirit nor induſtry in any thing to help 'themſelves, I pretend to deſerve none. Or if ſupplies are only the 'rewards of importunity, or given to avoid the trouble of being ſo-'licited, I think I ſhall for ever free you from that reaſon. And as

(*r*) Letters and Memorials, ubi ſupra, p. 698. (*s*) Ibid. p. 700.
(*t*) Ibid. p. 703.

'I have for ſome years run through greater ſtreights, than, I believe, 'any man of my condition hath done in England, ſince I was born, 'without ever complaining, I ſhall with ſilence ſuffer what fortune 'ſoever doth remain unto me. I confeſs, I thought another con-'cluſion might reaſonably have been made upon what I had ſaid; 'but I leave that to your lordſhip's judgment and conſcience: if 'you are ſatisfied in yourſelf, you ſhall not receive any trouble from 'your lordſhip's, &c.' However he ſtill continued his correſpond-ence with his father, to whom he obſerves in a letter, dated at Rome, March 12. 1660-1. O. S. (*u*) that he had heard of an Iriſh prieſt, one Plunket, nephew to Nicholas Plunket, 'who is 'very buſy, ſays he, in prating and ſcribbling: I know not the man, 'nor what exceptions he can have to me, unleſs it be for being an 'Engliſhman, ſometimes employed in Ireland. But I apprehend 'nothing but orders from England to my prejudice: he ſaith, ſuch 'will come, as ſhall force me to change my ſtation.' By the next letter, dated April 8. 1661. O. S. (*w*) it appears, that his father had deſired his picture, and was now inclinable to do ſomething for his ſupport. 'Sir John Temple, ſays he, ſpeaks ſomething of your 'lordſhip's laying down the money for the two mortgages upon 'Swingfield. I confeſs, that is more than I could have deſired of 'your lordſhip; but if you will pleaſe to favour me ſo much in the 'ruin of my fortune, as to take off that burden, ſo that I may have 'that land free for my ſubſiſtence, I ſhall, as long as I live, en-'deavour to deſerve it; and that is all the argument I can give to 'perſuade you, unleſs I ſhould add, that at my age, growing very 'near forty, and giving marks of declining by the colour of my hair, 'it is time that I had ſomething, which I may call my own, out of 'which I may in reſt have bread, when fortune hath taken from me 'all means of gaining it by my induſtry. Here is one Plunket, a 'young Iriſh prieſt, that gives me ſome trouble by fooliſh diſcourſes: 'amongſt others, he ſays, I am an atheiſt, and bred up in your 'lordſhip's houſe under ſuch a maſter, from whom I learnt thoſe 'opinions. He was anſwered, that was very improbable, and that 'my life and converſation gave teſtimony of the contrary; but tho' 'that were, it concerned nobody here. This anſwer was made by 'the abbot Hillariene, with ſome addition to my advantage; upon 'which he remained ſo mortified, that he confeſſed himſelf miſin-'formed, and came hither two or three days ſince, to make me an 'apology: I was glad of it; for tho' he could do me no prejudice, 'I would not willingly have any diſpute with him; for he is 'eſteemed one of the beſt wits in Rome. The other day I was in-'formed, that orders had been ſent from the court here to the inter-'nuntio in Flanders, to make the beſt inquiry he could of me; my 'birth, perſon, and quality: to whom information was given by one 'White an Iriſhman (that had ſometimes been ſecretary to Don 'Alonſo de Cardenas, and his interpreter at ſome audiences, which 'he had of me, as one of his commiſſaries) that I was ever found 'to

(*u*) Letters and Memorials, ubi ſupra, p. 708. (*w*) Ibid. p. 709.

'to be violent againſt monarchy; a friend unto Roman catholics; one 'that in our laſt troubles meddled little with private buſineſs, and 'that had made my fortune by the war; with ſome other things 'like unto theſe, part true, and part falſe; but none that I can learn, 'which doth me any prejudice. They were put upon this inquiry, 'by the fooliſh prating of ſome prieſts, who ſpoke of me, as the 'only enemy the king had left; and that, I being taken away, his 'majeſty might reign in quiet. Theſe are but very ſlight vapours, 'and, if nothing comes from England to my prejudice, I will eaſily 'blow them away.' In another letter to his father, of the 22d of April 1661. N. S. he has the following paſſages with relation to his circumſtances. 'I did receive draughts of theſe two incloſed wri-'tings from Sir John Temple, with direction to have them written 'out, and ſent unto your lordſhip, ſigned and ſealed, which I here-'with have accordingly performed. I confeſs, the intention of 'them is unknown to me, and not at all explained by him. Thus 'much only I do underſtand, that the lands are worth more than 'double the ſum, for which they were mortgaged; and that I can 'ſell them outright to the perſons, or redeem them, by paying the 'money hereafter, and have the overplus unto myſelf; which is 'the beſt part of that poor fortune which I have left in the world: 'but I know my intereſt is never ſo ſafe as in your lordſhip's hands; 'and not doubting, but that your lordſhip's intention is to favour 'me, and not to make uſe of ſuch a power to my prejudice, I here 'incloſed, as the utmoſt act of reſigning myſelf into your power, 'ſend them unto you.' In the poſtſcript to the ſame letter, he proceeds thus: 'I did intend to have ſaid no more; but it is a folly 'to conceal the evils that oppreſs me. I have with difficulty writ 'this; and the troubled thoughts, into which the letters received by 'the laſt poſt have caſt me, give me not eaſily the liberty of ſay-'ing more. The misfortunes into which I was fallen by the de-'ſtruction of our party did not ſhake me. The cheats and thefts of 'ſervants were too ordinary to trouble me. I ſuffered my mother's 'legacy to be drawn from me, upon which I might have ſubſiſted 'a good while. I was not very much ſurpriſed to find myſelf be-'trayed and robbed of all that with which I had truſted lady Strang-'ford. But I confeſs, that I am ſorely troubled, to find that Sir 'John Temple is going into Ireland; the agreement, which he had 'ſo often ſaid ſhould be made with Strangford, broken, from which 'I might expect ſome part of what is due unto me, to live upon: 'the mortgage to the earl of Thanet, to continue upon Andrews's 'land, which is the foreſt miſchief that ever fell upon me ſince I 'was born; and that I was ſo often promiſed ſhould be taken off, 'and put upon Portling lands, as it ought to be: and, by all theſe 'means together, I find myſelf deſtitute of all help at home, 'and expoſed to all thoſe troubles, inconveniencies, and miſchiefs, 'unto which they are expoſed, who have nothing to ſubſiſt upon, 'in a place far from home, where no aſſiſtance can poſſibly be ex-'pected, and where I am known to be of a quality, which makes 'all low and mean ways of living ſhameful and deteſtable. Theſe 'are part of the evils with which I find myſelf encompaſſed; and

'out

'out of which I ſee no iſſue; nor can I make one ſtep, that is not 'as likely to prove my deſtruction as preſervation. It will not be 'thought ſtrange, that I am ſenſible of them, ſince he that is not, 'muſt be an angel, or a beaſt. My only hope is, that God will 'ſome way or other put an end to my troubles, or my life.' The next letter of his to his father is dated June 3. 1661. O. S. (*x*) from Freſcati, where the prince Pamphilio, nephew to the laſt pope, had given him very convenient lodgings, in his villa de Belvedere; 'which, ſays he, is one of the fineſt in Italy. Whilſt every body at 'Rome is panting and gaſping for life in the heat, which, they 'ſay, this year is much greater than ordinary, I enjoy ſo freſh an air, 'as to have no reaſon at all to complain of the ſun. Here are 'walks and fountains in the greateſt perfection; and, tho' my na-'tural delight in ſolitude is very much increaſed this laſt year, I 'cannot deſire to be more alone than I am, and hope to continue. 'My converſation is with birds, trees, and books. In theſe laſt 'months, that I have had no buſineſs at all, I have applied myſelf to 'ſtudy a little more than I have done formerly: and tho' one, who 'begins at my age, cannot hope to make any conſiderable progreſs 'that way; I find ſo much ſatisfaction in it, that, for the future, I 'ſhall very unwillingly (tho' I had the opportunity) put myſelf into 'any way of living, that ſhall deprive me of that entertainment. 'Whatſoever hath been formerly the objects of my thoughts and 'deſires, I have now intention of ſeeking very little more than quiet-'neſs and retirement. This place is about half a mile from Freſ-'cati, where there hath been ſtore of company this ſpring; but they 'are almoſt all returned to Rome, and the reſt within a few days 'will follow, there being an opinion, that after the latter end of 'June it is extreme unwholſome to go from hence to Rome, until 'the air be purged by the rain, which ordinarily comes in October, 'which is enough to perſuade every one to return; it being hard to 'find a man here, that doth not make rules of health the principal 'care of his life. The cardinal Sachetti went from hence on 'Thurſday laſt, having firſt, with great civility, offered me his villa, 'with many conveniencies in it, for this ſummer; but I, being ſettled 'here, excuſed my remove.' On the 23d of the ſame month, he wrote another letter to his father from the ſame place, in which he ſaid (*y*); 'I left Rome, where I had a great deal of acquaintance, 'to avoid the neceſſity of making and receiving viſits, and live now 'as a hermit in a palace. Nature, art, and treaſure, can hardly 'make a place more pleaſant than this: the deſcription of it would 'look more like poetry than truth. A Spaniſh lady, coming not 'long ſince to ſee this houſe, ſeated in a large plain, out of a middle 'of a rock, and a river brought to the top of the mountain, with 'the walks and fountains, ingeniouſly deſired thoſe that were pre-'ſent, not to pronounce the name of our Saviour, leſt it ſhould diſ-'ſolve this beautiful inchantment. We have paſſed the ſolſtice, and 'I have not yet had occaſion to complain of heat; which in Rome 'is very exceſſive, and hath filled the town with ſickneſs, eſpecially 'that

(*x*) Letters and Memorials, ubi ſupra, p. 718. (*y*) Ibid. p. 720.

'that part of it where I lived. Here is what I look for, health, 'quiet, and ſolitude. I am with ſome eagerneſs fallen to read- 'ing, and find ſo much ſatisfaction in it, that, tho' I every 'morning ſee the ſun riſe, I never go abroad until ſix or ſeven of 'the clock at night; yet I cannot be ſo ſure of my thoughts, as to 'know certainly how long this manner of life will pleaſe me. I 'cannot but rejoice a little, to find, that when I wander, as a vaga- 'bond thro' the world; forſaken of my friends, poor, and known 'only to be a broken limb of a ſhipwreck'd faction; yet I find 'humanity and civility from thoſe, who are in the height of fortune 'and reputation. But I do alſo well know, I am in a ſtrange land; 'how far thoſe civilities do extend; and that they are too airy to 'feed or cloathe a man. I cannot ſo unite my thoughts unto one 'object, as abſolutely to forbid the memory of ſuch things as theſe 'are, to enter into them: but I go as far as I can; and ſince I can- 'not forget what is paſſed, nor be abſolutely inſenſible of what is 'preſent, I defend myſelf reaſonably well, from increaſing and an- 'ticipating evils by foreſight. The power of foreſeeing is a happy 'quality unto thoſe who proſper, and can ever propoſe to themſelves 'ſomething of greater felicity than they enjoy; but a moſt deſperate 'miſchief unto them, who, by foreſeeing, can diſcover nothing 'that is not worſe than the evils they do already feel. He that is 'naked, alone, and without help, in the open ſea, is leſs unhappy in 'the night, when he may hope the land is near, than in the day, 'when he ſees it is not, and that there is no poſſibility of ſafety. 'Perhaps ſharp-ſighted brains might, in a condition like unto mine, 'find more occaſion of trouble than I do: I find ſtupidity of an 'advantage; nature hath given me a large proportion of it; and I 'did artificially increaſe it to that degree, that if I were not 'awakened with the bitter ſenſe of ſome miſchiefs, that the lady 'Strangford hath brought upon me (which Sir John Temple ever 'made me hope he would remove) I ſhould reſt well enough at eaſe, 'in a dull indolence, and never trouble myſelf with the thought of 'examining, where I ſhould have bread for three months. This 'may ſhew your lordſhip, into what ſtate nature and fortune have 'brought one that received life from you. I have not much to 'complain of (unleſs in that one point I mentioned) leſs to deſire, 'and leaſt of all to be pleaſed with.'

His next letter is dated July 14. 1661. O. S. in which he ſays (z), 'I have extreme little to ſay, becauſe I neither do any thing, nor 'know what is done by others. I intend this half-burial, as a pre- 'parative for an intire one; and ſhall not be much troubled, tho' I 'find, if, upon the knowledge of my manner of life, they, who the 'the laſt year, at Whitehall, did exerciſe their tongues upon me, as 'a very unruly, heady man, do ſo far change their opinion of me 'on the ſudden, as to believe me ſo dull and lazy, as to be fit for 'nothing. When that opinion is well ſettled, I may hope to live 'quietly in England, and then ſhall think it a ſeaſonable time to 'return. I have ſome inclinations this autumn to go to Naples, and

(z) Letters and Memorials, ubi ſupra, p. 721.

'from thence to Sicily and Malta, to paſs the winter in ſome of 'thoſe places, and return to Rome in the ſpring. It is not uſual 'for me to look ſo many months before-hand, nor poſſible to ex- 'tend my ſight any further. I muſt then know from my friends at 'home, whether it be yet time to return thither. I have ever had 'it in my thoughts to chuſe that before any thing; but if it be ſtill 'inconvenient for me to take that reſolution, I muſt then think of 'making another pauſe at Rome, or ſome other place, that may 'prove inconvenient. I writ two or three letters to your lordſhip, 'which deſerve at leaſt ſo much of an anſwer, as to know what 'your lordſhip will do in the ſubject of the one, and what directions 'you will be pleaſed to give me in thoſe things I mentioned in the 'other. The firſt was accompanied with two deeds, of which I 'received draughts from Sir John Temple; wherein I did make 'over, unto ſome of your ſervants, my right of redemption in two 'farms at Swingfield, hoping that your lordſhip will be pleaſed to 'redeem them. In the other I ſent a liſt of books, deſiring your 'lordſhip's commands for providing ſo many of them as ſhould 'pleaſe you. I give your lordſhip many thanks for the money ſent 'me by Mr. Hodgkins.'

Several of his friends having been importunate with him for his return, he wrote the following letter (*a*); but the want of a date makes the particular time of writing it uncertain.

'SIR,

'I am ſorry I cannot in all things conform myſelf to the advices 'of my friends. If theirs had any joint concernment with mine, 'I ſhould willingly ſubmit my intereſt to theirs: but when I alone 'am intereſted, and they only adviſe me to come over as ſoon 'as the act of indemnity is paſſed, becauſe they think it is beſt for 'me, I cannot wholly lay aſide my own judgment and choice. I 'confeſs, we are naturally inclined to delight in our own country, 'and I have a particular love to mine. I hope I have given ſome 'teſtimony of it. I think, that being exiled from it is a great evil; 'and would redeem myſelf from it with the loſs of a great deal of 'my blood. But, when that country of mine, which uſed to be 'eſteemed a paradiſe, is now like to be made a ſtage of injury; the 'liberty, which we hoped to eſtabliſh, oppreſſed; luxury and lewd- 'neſs ſet up in its height, inſtead of the piety, virtue, ſobriety, and 'modeſty, which we hoped, God, by our hands, would have in- 'troduced; the beſt of our nation made a prey to the worſt; the 'parliament, court, and army, corrupted; the people enſlaved; all 'things vendible; no man ſafe, but by ſuch evil and infamous 'means, as flattery and bribery; what joy can I have in my own 'country in this condition? Is it a pleaſure to ſee, that all I love in 'the world is ſold and deſtroyed? Shall I renounce all my old 'principles, learn the vile court-arts, and make my peace by bribe- 'ing ſome of them? Shall their corruption and vice be my ſafety? 'Ah! no: better is a life among ſtrangers, than in my own country 'upon ſuch conditions. Whilſt I live, I will endeavour to preſerve 'my

(*a*) Familiar Letters of John late earl of Rocheſter, &c. p. 62.

'my liberty; or, at leaſt, not conſent to the deſtroying of it. I 'hope I ſhall die in the ſame principles, in which I have lived, and 'will live no longer than they can preſerve me. I have in my life 'been guilty of many follies; but, as I think, of no meanneſs. I will 'not blot and defile that which is paſt, by endeavouring to provide 'for the future. I have ever had in my mind, that when God 'ſhould caſt me into ſuch a condition, as that I cannot ſave my life, 'but by doing an indecent thing, he ſhews me the time is come, 'wherein I ſhould reſign it. And when I cannot live in my own 'country, but by ſuch means, as are worſe than dying in it; I 'think he ſhews me, I ought to keep myſelf out of it. Let them 'pleaſe themſelves with making the king glorious, who think a 'whole people may juſtly be ſacrificed for the intereſt and pleaſure 'of one man, and a few of his followers: let them rejoice in their 'ſubtilty, who, by betraying the former powers, have gained the 'favour of this, not only preſerved, but advanced themſelves in 'theſe dangerous changes. Nevertheleſs, perhaps they may find 'the king's glory is their ſhame; his plenty the people's miſery; and 'that the gaining of an office, or a little money, is a poor reward 'for deſtroying a nation (which, if it were preſerved in liberty and 'virtue, would truly be the moſt glorious in the world) and that 'others may find they have with much pains purchaſed their own 'ſhame and miſery; a dear price paid for that, which is not worth 'keeping, nor the life that is accompanied with it. The honour of 'Engliſh parliaments hath ever been in making the nation glorious 'and happy, not in ſelling and deſtroying the intereſt of it, to ſatisfy 'the luſts of one man. Miſerable nation! that, from ſo great a 'height of glory, is fallen into the moſt deſpicable condition in the 'world; of having all its good depending upon the breath and will 'of the vileſt perſons in it! cheated and ſold by them they truſted! in- 'famous traffick, equal almoſt in guilt to that of Judas! In all preceding 'ages parliaments have been the palace of our liberty; the ſure defenders 'of the oppreſſed: they, who formerly could bridle kings, and keep 'the balance equal between them and the people, are now become 'inſtruments of all our oppreſſions, and a ſword in his hand to de- 'ſtroy us; they themſelves led by a few intereſted perſons, who are 'willing to buy offices for themſelves, by the miſery of the whole na- 'tion, and the blood of the moſt worthy and eminent perſons in it. 'Deteſtable bribes, worſe than the oaths now in faſhion in this 'mercenary court! I mean to owe neither my life nor liberty, to 'any ſuch means: when the innocence of my actions will not pro- 'tect me, I will ſtay away till the ſtorm be over-paſſed. In ſhort, 'where Vane, Lambert, and Haſelrigg cannot live in ſafety, I can- 'not live at all. If I had been in England, I ſhould have expected 'a lodging with them; or, tho' they may be the firſt, as being 'more eminent than I, I muſt expect to follow their example in 'ſuffering, as I have been their companion in acting. I am moſt 'in a maze at the miſtaken informations, that were ſent to me by 'my friends, full of expectations of favours and employments. 'Who can think, that they, who impriſon them, would employ 'me, or ſuffer me to live, when they are put to death? If I might

'live, and be employed, can it be expected, that I ſhould ſerve a 'government that ſeeks ſuch deteſtable ways of eſtabliſhing itſelf? 'Ah! no: I have not learnt to make my own peace, by perſecuting 'and betraying my brethren, more innocent and worthy than my-'ſelf. I muſt live by juſt means, and ſerve to juſt ends, or not at 'all. After ſuch a manifeſtation of the ways by which it is intended 'the king ſhall govern, I ſhould have renounced any place of favour, 'into which the kindneſs and induſtry of my friends might have ad-'vanced me; when I found thoſe, that were better than I, were only 'fit to be deſtroyed. I had formerly ſome jealouſies: the fraudulent 'proclamation for indemnity increaſed them: the impriſoning of 'thoſe three men, and turning out of all the officers of the army, 'contrary to promiſe, confirmed me in my reſolutions not to return. 'To conclude, the tide is not to be diverted, nor the oppreſſed deli-'vered; but God, in his time, will have mercy on his people: he 'will ſave and defend them, and avenge the blood of thoſe, who ſhall 'now periſh, upon the heaps of thoſe, who, in their pride, think 'nothing is able to oppoſe them: happy are thoſe, whom God ſhall 'make inſtruments of his juſtice in ſo bleſſed a work. If I can live 'to ſee that day, I ſhall be ripe for the grave, and able to ſay with 'joy, "Lord, now letteſt thou thy ſervant depart in peace, &c." 'Farewel. My thoughts as to king and ſtate depending upon their 'actions, no man ſhall be a more faithful ſervant to him than I, if he 'make the good and proſperity of his people his glory; none more his 'enemy, if he doth the contrary. To my particular friends I ſhall 'be conſtant in all occaſions; and to you a moſt affectionate ſervant.'

After he had continued ſome time in Italy, he thought proper to draw nearer home, that, if an opportunity ſhould offer, "he might "not," as general Ludlow obſerves *(b)*, "be wanting to his duty, "and the public ſervice." In his way he viſited that general, and his friends, in their retirement in Swiſſerland, aſſuring them of his affection and friendſhip, and no-way declining to own them, and the cauſe for which they ſuffered. He ſtaid with them about three weeks; and, deſigning to go for Flanders, where he reſolved to paſs the enſuing winter, he took his journey by the way of Bern, doing all the good offices he could for general Ludlow, and his friends, with the advoyer, and other principal magiſtrates, of that city *(c)*. He was at Bruſſels in the end of the year 1663. whence he wrote the following letter to his father, dated the 1ſt of December, O. S. with relation to tranſporting a body of the beſt officers and ſoldiers of the old army into the ſervice of the emperor *(d)*: 'I received the laſt week a letter 'from Mr. Hodgſkins, who ſaid, that young Culpepper had a regiment 'of thoſe men, reported to be raiſed for the ſervice of the emperor; 'who bid him tell me, that, if I would engage myſelf in that buſineſs, 'I might have a good employment. I am not much inclined to be-'lieve theſe men are intended for that ſervice; nor that thoſe, who 'diſpoſe of the commands, will be willing to employ me: nor, if 'they were, ſhould rely much upon the judgment of him that ſent

(*b*) Memoirs, Vol. III. p. 118, 119. (*c*) Ibid. (*d*) Letters and Memorials of State, p. 725.

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'the meſſage; nor enter far upon the treaty of a buſineſs of ſuch im-
'portance, with him that conveyed it. I did therefore return no other
'anſwer unto him, than that I was not in a condition to refuſe a good
'employment; and, if I might know in what company, and upon
'what terms, I might have it, I would return a ſpeedy anſwer. I
'have reflected upon this buſineſs ſince I writ that letter, and, joining
'it with ſome other circumſtances that have come to my knowledge,
'I incline to believe the Propoſer did follow the directions of ſome
'perſon more important than himſelf, rather than his own opinion;
'which perſuades me to ſend a better anſwer. If there be any thing
'of reality in the propoſition, I can aſcribe it only to the deſire that
'thoſe in power may have, to ſend away thoſe that are ſuſpected by
'them. They ſhall have their end; I will ſerve them in it, if they
'pleaſe, and upon more eaſy terms than will be expected by others.
'I will undertake to tranſport a good ſtrong body of the beſt officers
'and ſoldiers of our old army, both horſe and foot: though the obtain-
'ing of this would be a very conſiderable advantage unto me, and
'ſome of my friends, I do not aſk it as a favour; I know neither they
'nor I ſhall receive any thing upon that account. The firſt that I
'ever did aſk, and the leaſt that I ever can aſk (I mean the aſſurance
'of being permitted to live quietly for a few months at Penſhurſt)
'not having been granted, I am like to make few requeſts for the
'future. But as I think, that the advantage which the king expects
'by ridding the land of theſe perſons, is the motive upon which the
'offer was made, I believe it to be a very conſiderable one; for they,
'who find themſelves ſuſpected, may poſſibly grow unquiet. The
'deſtroying of them will be a work of time, and not without diffi-
'culty and danger; and it cannot be expected, that they will, of
'their own accord, leave their country, unleſs it be with ſome men
'of whom they have a good opinion; and all thoſe are as little fa-
'voured as I am. I deſire your lordſhip to ſend for Culpepper, and
'know of him upon what ground he made the propoſition, and then
'to proceed as you ſhall think fit. If it be granted, it is well; and
'I hope to carry thoſe, who will gain honour unto the nation, where-
'ſoever they go; and either find fortunes for themſelves, or graves,
'which is as good; and it will be very ſuitable unto my intention, who,
'as I told you in a letter about three weeks ſince, have thoughts of paſſing
'the next ſummer, as a volunteer, in Hungary. I doubt your lordſhip
'will be unwilling to propoſe this, leſt it ſhould make the king or his
'miniſters believe, that I am upon better terms with my old companions,
'than you would have them think me. I deſire your lordſhip to wave
'that ſcruple: I have credit enough with them for ſuch a buſineſs as
'this is; and, if I were not thought at court to have far more than I
'have, they would not trouble themſelves with me ſo much as they
'do. Whatſoever it is, I deſire to make uſe of it to carry me, and
'a good number of thoſe in the ſame condition, ſo far from Eng-
'land, as thoſe who hate us, may give over ſuſpecting us. I deſire
'your lordſhip will be pleaſed to ſend me an anſwer of this buſineſs
'as ſoon as you can, and to communicate this unto the lord Sunder-
'land.'

In 1665. upon the breaking out of the war between England and the United Provinces, ten perſons were ſent by king Charles II. to Augſburg in Germany to aſſaſſinate colonel Sidney; and probably might have effected their deſign, if he, having undertaken a journey to Holland, upon buſineſs relating to the public, had not removed from that city before their arrival (*e*).

He continued abroad till the year 1677. when he procured leave to return to England; and obtained a particular pardon, according to biſhop Sprat (*f*), " upon repeated promiſes of conſtant quiet and obe-" dience for the future." Biſhop Burnet affirms (*g*), that 'he came 'back when the parliament was preſſing the king into a war. The 'court of France obtained leave for him to return. He did all he 'could to divert people from the war; ſo that ſome took him for a 'penſioner of France. But he ſaid, our court was in an intire confi-'dence in France, and had no other deſign in this ſhew of a war, but 'to raiſe an army, and keep it beyond-ſea till it was trained and mo-'delled.' But it is evident from a letter of his to the honourable Henry Savile, the Engliſh ambaſſador in France, that it was that gentleman who obtained leave for him to return. The letter is dated from Nerac, December 28. but the year erroneouſly printed 1682. and is as follows (*h*): 'I received yeſterday, in one and the ſame 'packet, three letters from you, of which one had paſſed through 'Paris whilſt I was there; and that would have ſpared me a journey 'of four hundred leagues, if I had then received it. This would have 'been a convenience unto me; but my obligation unto you is the ſame; 'and I ſo far acknowledge it to be the greateſt, that I have in a long 'time received from any man, as not to value the leave you have ob-'tained for me to return into my country, after ſo long an abſence, 'at a lower rate than the ſaving of my life. You having proceeded thus 'far, I will, without any ſcruple, put myſelf intirely upon the king's 'word, and deſire you only to obtain a paſs to ſignify it, and that his 'majeſty is pleaſed to ſend for me; ſo as the officers of the ports, and 'other places, may not ſtop me, as they will be apt to do as ſoon as 'they know my name, if I have not that for my protection. You 'took that, which had paſſed between you and me, ſo rightly, that I 'have nothing to add unto it. I have no other buſineſs than what 'ſolely concerns my perſon and family. I deſire not to be a day in 'England unknown to the king, or his miniſters; and will loſe no 'time in waiting upon the ſecretary, as ſoon as I can after my arrival. 'I think it no-ways reaſonable that I ſhould ſtay in England, if the 'king do not ſee I may do it without any ſhadow or probability of 'prejudice unto him: and, unleſs I can ſatisfy him in that point, I 'deſire no more than to return on this ſide the ſeas after the three 'months, where I intend to finiſh my days, without thinking any 'more of living in England. You ſee my thoughts ſimply expoſed. 'I beſeech you to accompliſh the work you have ſo well begun. Send

(*e*) Ludlow's Memoirs, Vol. III. p. 172. (*f*) Hiſtory of the Rye-houſe plot, p. 136. (*g*) Hiſtory of his own Times, Vol. I. (*h*) Letters of the honourable Algernon Sidney to the honourable Henry Savile, p. 169. Edit. Lond. 1742.

'your

'your anſwer to Monſ. du Moulins; and believe no man in the 'world can be more obliged unto you, than your moſt humble and 'obedient ſervant."

He was at Penſhurſt on the 13th of November, 1677. and then gave a diſcharge to the executors of his father's will, Robert earl of Sunderland, Henry Sidney, Eſq; his brother, and Sir John Pelham, bart. for the legacy left him therein of 5000 and 100 l (*i*).

The year following, he ſtood candidate for the town of Guilford in Surrey; but the court oppoſing his election, he loſt it; and tho' he drew up an account of the irregular proceedings in it, yet he did not think proper to purſue his claim (*k*). In 1679, he ſtood likewiſe candidate for the borough of Bramber, in Suſſex; but was not choſe, the intereſt being before made by Sir John Pelham, for his brother Henry Sidney, afterwards earl of Romney.

In 1683. he was accuſed of being concerned in the Rye-houſe plot; and, after the lord Ruſſel had been examined, he was brought before the king and council: he told them, that he would make the beſt defence he could, if they had any proof againſt him; but he would not fortify their evidence by any thing he ſhould ſay; ſo that his examination was very ſhort (*l*). He lay ſometime in the tower, and was brought thence by habeas corpus, on the 7th of November 1683. to the king's-bench-bar, where he was arraigned on an indictment of high-treaſon (*m*). The indictment, at the time when he came into the hall, was ſo far from being found by the grand jury, as Sir John Hawles obſerves (*n*), that it was not ſo much as preſented to them; but the king's counſel, who had packed the jury, knew well enough, that it would be accepted, that is, found upon ſight by the jury, without any conſideration, which was accordingly done. The indictment was for deſigning to depoſe the king, and to perſuade the king's ſubjects to rebel; and that he did write a certain libel, wherein it was contained, that he (meaning king Charles II.) is ſubject to the law of God, as he is a man; to the people, who made him ſuch, as a king, &c. To which indictment he would have put in ſome exceptions, expreſſed in a parchment in his hand; but was told by the court, that he muſt either plead, or demur; and upon no other terms exceptions could, or ought to be admitted: after which he pleaded not guilty. On the 21ſt of November he was tried; at which time he inſiſted to have a copy of his indictment, as he had done when he was arraigned, but was both times denied. The firſt witneſs againſt him was Mr. Weſt; againſt whom colonel Sidney objected, becauſe he was not pardoned: but it was anſwered by the court, that he was a good witneſs in lord Ruſſel's tryal, and therefore he ſhould be in that. The colonel then deſired, that Mr. Weſt might ſpeak nothing but what he knew of him; but was anſwered by the court, that he might give evidence of a plot in general, tho' the colonel was not concerned in it; and it was called Sir William Jones's law. Then Mr. Weſt proceeded, and gave evi-

(*i*) Collins's Memoirs, ubi ſupra, p. 153. (*k*) Id. ibid. p. 153, 154, 155. (*l*) Burnet's Hiſtory of his own Times, Vol. I. p. 548. (*m*) Kennet's Complete Hiſtory of England, Vol. III. p. 403. 2d edit. London, 1719. (*n*) Remarks upon the tryals of Edward Fitzharris, &c. p. 76. Edit. London, 1689. fol.

dence

dence of what colonel Rumſey, Mr. Nelthorp, and Mr. Ferguſon told him of colonel Sidney; but, of his own knowledge, he could not ſay any thing of the priſoner. Rumſey gave a like evidence to what he had done in lord Ruſſel's tryal, with an addition of what Mr. Weſt, and Mr. Goodenough, told him. Keeling gave evidence of what Goodenough told him; all which the court agreed was no evidence againſt the priſoner. Then the lord Howard of Eſerick gave the like evidence from the middle of January to that time, as he had done in lord Ruſſel's tryal; except that he ſaid, that the earl of Saliſbury was brought into the cabal, who was not mentioned before; and that the meeting at lord Ruſſel's was about a fortnight, or three weeks, after the meeting at Mr. Hamden's; whereas, in lord Ruſſel's tryal, he ſays, it was about ten days after the meeting at Mr. Hamden's houſe: and here he made two notable ſpeeches for Mr. Hamden, at the opening of the conſultation, both which he had forgotten at lord Ruſſel's tryal, nor could remember at that of Mr. Hamden, tho' in the laſt he was led by a great many queſtions to put him in mind of them. After his evidence given, col. Sidney was aſked, whether he would aſk the witneſs any queſtions; who anſwered, that he had no queſtions to aſk him: whereupon the attorney-general ſaid, 'Silence—You know the proverb.' The record of lord Ruſſel's conviction and attainder was given in evidence. Sir Andrew Foſter ſwore, that Sir John Cockran and the two Campbells came to London. Sir Philip Lloyd, clerk of the council, proved the ſeizing of ſome papers in the priſoner's houſe, and he believed the papers ſhewn in court to be ſome of them. Shepherd, Cary, and Cook, ſwore, that the writing produced was like the priſoner's hand-writing. The attorney-general deſired, that ſome part of the writing ſhould be read: the priſoner deſired, that all of it ſhould be read; but was anſwered by the court, that the attorney muſt have what part of it he would to be read; and afterwards the priſoner ſhould have what part of it he would to be read likewiſe: but he perſiſted to deſire, that all of it might be read. Then the writing was read, which was plainly an anſwer to a book; but what book was not mentioned; in which anſwer, the rights of the people were aſſerted. The earl of Angleſea gave the ſame evidence for the priſoner, of the lord Howard's ſpeaking of lord Ruſſel, and the plot, as he had done in that lord's tryal. The earl of Clare obſerved, that lord Howard, after col. Sidney's impriſonment, ſaid, if he was queſtioned again, he would never plead; that the quickeſt diſpatch was the beſt; he was ſure they would have his life: and, ſpeaking of the primate of Armagh's prophecy, ſaid, the perſecution was begun; and he believed it would be very ſharp, but hoped it would be very ſhort; and ſaid, he thought col. Sidney as innocent as any man breathing; gave him great encomiums, and bemoaned his misfortune: and, as for the colonel's papers, he was ſure they could make nothing of them. Mr. Philip Howard ſaid, that lord Howard ſaid it was a ſham-plot. Dr. Burnet gave the ſame evidence, as he did in lord Ruſſel's tryal. Mr. Ducas gave evidence, that lord Howard ſaid, he knew nothing of col. Sidney's being in any plot. Lord Paget gave evidence to the ſame purpoſe;

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as did likewiſe Edward Howard, and Mr. Fenwick. Mr. Blake teſtified, that lord Howard ſaid, he had not his pardon; and could not aſcribe it to any other reaſon, than that he muſt not have it, till the drudgery of ſwearing was over.

Sir John Hawles obſerves, upon a review of what has been ſaid, that it is ſtrange to ſee, what a progreſs was made in the reſolutions of points of law, to take away a man's life; as if, in col. Sidney's words, the court and council thought it their duty to take away a man's life any how. Mr. Weſt, and ſeveral others, are admitted to give evidence upon hearſay againſt the priſoner; and their evidence ſummed up and urged as evidence to the jury; and the reaſon given for it was, that he was admitted a good witneſs of a like matter in lord Ruſſel's tryal: whilſt, beſides that, it was not true (for he was rejected in that tryal, as it appears in print) yet, if he had been admitted, it was of no authority, as col. Sidney ſaid, becauſe he was excepted to. Of a like ſtamp is the evidence of the conviction of lord Ruſſel; tho' it muſt be own'd, that lord Ruſſel's conviction was as good evidence againſt col. Sidney, as the earl of Eſſex's murder was againſt lord Ruſſel, and no better. The ſame may be ſaid of Rumſey's, Keeling's, Foſter, and Atterbury the meſſenger's evidence. Againſt the lord Howard's evidence there were ſome objections, as in the lord Ruſſel's tryal, with the addition of ſeveral other perſons, teſtifying, that he ſaid he knew not, nor believed any thing of the matter; and that he could not have his pardon, till he ſwore other perſons out of their lives; which, in truth, was the ſenſe of his expreſſions.

The king's counſel, indeed, had thought of ſomething ſince lord Ruſſel's tryal, to palliate the matter of lord Howard's ſayings; for they bore hard upon his reputation, and looked, as if he would perjure himſelf at the expence of ſome perſons lives; as his words are in lord Ruſſel's tryal. 'Would you, ſay they, have had him con-'feſs the matter to thoſe perſons, to whom he denied it?' In anſwer to this it may be obſerved, that there is a difference between confeſſing and denying. Who aſked him the queſtion? What did it avail him, to deny it to the perſons teſtifying againſt him? And therefore, when he voluntarily ſaid a thing untrue, unaſked, not provoked or compelled to do it, and which could do him no good, it was good evidence of his untruth; and that no credit ought to be given to what he ſwore.

With regard to the laſt part of the evidence, which related to the writing; both the indictment, and the evidence, was defective. As for the evidence, if the ſubject-matter of the writing had been evidence of treaſon, the indictment ought to have expreſſed, that he publiſhed it; which the indictment in this caſe did not; and upon good reaſon, which was, that the jury might be put in mind, that the publiſhing of it was neceſſary to make it known; whereas they very well knew, that the evidence would not, nor did, come up to it. This was the firſt indictment of high treaſon, upon which any man loſt his life, for writing any thing without publiſhing it; for, in Fitz-Harris's indictment, he was charged with publiſhing his libel; and ſo in all other indictments for writing, and upon good grounds; for

this being made an overt-act of treaſon, it muſt be an evidence of a deſign to kill or depoſe the king, and the like. And as the conſequence of what was contained in the writing; which was, that the power was in the people, &c. being in its nature no other, nor urged by the king's counſel to any other intent, than to corrupt the minds of the ſubjects, could not be evidence of ſuch matter, unleſs proved that he had writ and publiſhed it; whereof the laſt was not pretended to be proved.

That it was neceſſary to be expreſſed in the indictment, and proved at the tryal, appears by the reſolution of all the judges of England, in Hugh Pine's caſe, reported in Cro. Car. fol. 89. at a time, when prerogative ran pretty high; wherein, beſides the reſolution, that no words charging the king with any perſonal vice were treaſon, there is the caſe of one Peacham in the 33d of Henry VIII. cited, who was indicted for treaſon, for treaſonable paſſages in a ſermon never preached, nor intended to be preached, but found in writing in his ſtudy. He was found guilty, but never executed; for many judges, at that time, were of opinion, that it was not treaſon, as the book ſays: which, according to the evidence here given, was the expreſs caſe of col. Sidney, admitting, that he wrote the book produced, and that the paſſages in it were treaſonable.

And, as this indictment was an original in the particular beforementioned; ſo it was a ſecond of an innuendo indictment of treaſon. Fitz-Harris was the firſt. The proſecution againſt Car was an information, and judgment arreſted after verdict; becauſe it was by innuendo, of which no precedent could be produced. And, altho' in actions for words it was permitted, yet in criminal matters, being penal, it was reſolved, that it ought not to be permitted; and certainly much leſs in treaſon. And, as this indictment was an original in one part, and a ſecond in another; ſo the evidence on it was an original in another part; which was proving the book produced to be col. Sidney's hand-writing; becauſe the hand was like what ſome of the witneſſes had ſeen him write; an evidence never permitted in a criminal matter before. The caſe of the lady Car was truly cited by col. Sidney, againſt whom there was an indictment or information of perjury; in which it was reſolved, that compariſon of hands was no evidence in any criminal proſecution; and it muſt be owned, that at that time, beſides Keeling and Twyſden, there then ſat in that court Sir Wadham Wyndham, whom all will own to have been the ſecond beſt judge, who ſat in Weſtminſter-hall ſince the reſtoration. And if it be not evidence in a proſecution of miſdemeanour, much leſs in treaſon, as col. Sidney ſaid: which inference, beſides the reaſon of the thing, is ſupported by the authority of the lord Coke.

But, admitting col. Sidney wrote the book, and publiſhed it; yet if it were not done with a deſign to ſtir up the ſubjects into a rebellion; but was writ and publiſhed only "diſputandi gratia," as the import of the book plainly ſhew'd it was; it was no more treaſon than the diſcourſe between Blagrave and Mat. Lee, about taking the Tower, was. And, ſuppoſing it was writ with that deſign; yet it not appearing when it was writ; how could a jury, upon their

oaths,

oaths, ſay it was done with a deſign to raiſe rebellion againſt king Charles II. when, for ought that appeared, it was writ before he was king, or thought of: it might be writ in the time of Charles I. or of Cromwell, and deſigned againſt either of them, or any foreign prince; and therefore could not be treaſon againſt king Charles II.

The evidence was an original in this particular alſo, as it was the firſt time, that ever a particular expreſſion in writing was given in evidence againſt a man in treaſon, without reading the whole writeing; and for a very good reaſon given by the jury in Fitz-Harris's caſe; which was, that there might be ſomething in the writing not expreſſed in the indictment, which might explain the clauſes in the indictment, ſo that they may bear another conſtruction: and in that tryal it was agreed, that the whole writing ought to be read; and was read accordingly. And it was the duty of the court to have ordered, whether the priſoner or jury had deſired it or not, as they are upon their oaths to do right. But in col. Sidney's caſe, when this was preſſed by him, it was denied; only ſome particular paſſages he might read, if he would; which he did not accept of, upon a very good reaſon, which he gave, which was, that he knew not the paſſages of the book, or at leaſt did not remember them, and therefore could not call for them. It is true, that practice in civil matters is allowed to ſave time, where the miſchief is not very great; becauſe, if a paſſage in a deed or writing, material for either party, be omitted in reading, the matter may be brought about again: but in criminal, much leſs in capital proſecutions, they cannot be, unleſs a way can be found to bring a man to life again.

Almoſt all the circumſtances of the tryal are originals. The ſumming up of the evidence againſt him was barbarous, being invectives, and no conſequences. It was ſaid, that he was not only guilty of the practices, which he was accuſed of, but he could not have been otherwiſe, becauſe his principles led him to it: and it might with as good reaſon have been urged, that he not only was become, but was born, a traitor. The laſt matter remarkable in the tryal was that of an overt-act, of which the court ſaid, it was reſolved by all the judges of England, that if a man buy a knife of J. S. to kill the king, and one witneſs prove, that he bought the knife, and another prove, that he bought it for that purpoſe, they are two witneſſes of an overt-act, within the ſtatute of Edward VI. It were very fit to know, who the judges were, who gave that reſolution, if it were but for the authority of the caſe; for the reaſon of it will ſcarce convince any man. They might as well have reſolved, that eating or drinking, or the moſt ordinary acts of a man's life, is an overt-act of high-treaſon. The law hath taken that care for the evidence of high-treaſon, which it hath not done in any other caſe; that it muſt be proved by an overt-act, proved by two witneſſes. One would think at firſt ſight of the ſtatute, that there ſhould be two witneſſes to the ſame fact. But that hath been adjudged otherwiſe: but ſtill it was reſolved, that there muſt be two witneſſes. But if the reſolution above-mentioned be law, it is plain there needs but one. It is true, if a man does an act for which he can give no reaſon, as placing a mine of powder in a

place, which the king uſually paſſes over, or planting a piece of cannon to ſhoot at a place, which the king uſually paſſes by; if he cannot give a credible reaſon, why he did it: and if another ſwears the purpoſe of the thing, it is two good witneſſes within the act. It hath been ſaid, that if a man be bound to his good behaviour, and wears a ſword, it is a breach of the good behaviour: and perhaps heretofore, when ſwords were not uſually worn, but by ſoldiers, it might be ſo, becauſe it ſtruck a terror into other people, as much as a blunderbuſs, or the like unuſual weapon, or the going armed in a coat of mail, for any perſon but a ſoldier, doth at this day: but no man will ſay, that now, when ſwords are uſually worn by all ſorts of people, that it is a breach of the good behaviour; and ſo that, which heretofore was a crime, is now by cuſtom become none. It is therefore the unuſualneſs, the unaccountableneſs of the circumſtance, which makes it an evidence; which cannot be aſſigned as a reaſon in the overt-act above-mentioned.

The laſt thing to be taken notice of is, that col. Sidney refuſed to aſk lord Howard any queſtions; from which it was inferred, that he aſſented to the truth of the matter ſworn. But it is well known, that it is not prudent to aſk a thorow-paced witneſs a queſtion. In Mr. Hamden's tryal, his counſel refuſed to do ſo for that reaſon.

The colonel being found guilty, when he was brought into court to receive ſentence, he repeated his objections to the evidence againſt him; in which judge Withins interrupted him, and by a ſtrange indecency gave him the lye in open court, which he bore patiently.

His execution was reſpited for three weeks; the tryal being univerſally exclaimed againſt, as a piece of moſt enormous injuſtice. After conviction he ſent to the lord Halifax, afterwards marquis of Halifax, who was his nephew by marriage, a paper to be laid before the king, containing the main points of his defence, upon which he appealed to his majeſty, and deſired he would review the whole matter. Whereupon the lord chief juſtice Jefferies, who had try'd him, ſaid, 'That either Sidney muſt die, or he muſt die (*o*).' During his impriſonment, he ſent for ſome independent preachers, and expreſſed to them a deep remorſe for his paſt ſins, and a great confidence in the mercies of God. When he ſaw the warrant for execution, he expreſſed no concern at it, and the change that was in his temper, amazed all who went to him. He told the ſheriffs, who brought the warrant, that he would not expoſtulate upon any thing on his account (for the world was now nothing to him) but he deſired they would conſider, how guilty they were of his blood, who had not returned a fair jury, but one pack'd, and as they were directed by the king's ſollicitor: he ſpoke this to them, not for his own ſake, but for their ſake. One of the ſheriffs was ſtruck with this, and wept (*p*). He wrote a long vindication of himſelf, which biſhop Burnet ſays (*q*) he had read; and that he ſummed up the ſubſtance of it in the paper, which he gave to the ſheriffs; and, ſuſpecting they might ſuppreſs it, he gave a copy of it to a friend. It was a fortnight

(*o*) Burnet, ubi ſupra, p. 572. (*p*) Id. ibid. (*q*) Id. ibid.

fortnight before it was printed; though the ſpeeches of thoſe, who had died for the popiſh plot, were publiſhed the very next day: and it would not have been ſuffered to have been printed, but that written copies were daily diſperſed. He met death with an unconcernedneſs which became one, who had ſet up Marcus Brutus for his pattern. He was but a few minutes on the ſcaffold on Tower-hill; he ſpake little, and his prayer was very ſhort; and his head was cut off at one blow (*r*), on the 7th of December 1683. aged about ſixty-one years (*s*). The next day his body was interred with his anceſtors at Penſhurſt. The paper, which he delivered to the ſheriffs, ſets forth his innocence, and the violent treatment which he had undergone, with ſuch force, that it deſerves to be inſerted here at full length.

Men, Brethren, and Fathers; Friends, Countrymen, and Strangers:

IT may be expected, that I ſhould now ſay ſome great matters unto you; but the rigour of the ſeaſon, and the infirmities of my age, increaſed by a cloſe impriſonment of above five months, do not permit me.

Moreover, we live in an age that makes truth paſs for treaſon: I dare not ſay any thing contrary unto it, and the ears of thoſe that are about me will probably be found too tender to hear it. My tryal and condemnation doth ſufficiently evidence this.

Weſt, Rumſey, and Keyling, who were brought to prove the plot, ſaid no more of me, than that they knew me not; and ſome others, equally unknown to me, had uſed my name, and that of ſome others, to give a little reputation to their deſigns. The lord Howard is too infamous by his life, and the many perjuries not to be denied, or rather ſworn by himſelf, to deſerve mention; and, being a ſingle witneſs, would be of no value, though he had been of unblemiſhed credit, or had not ſeen and confeſſed, that the crimes committed by him would be pardoned only for committing more; and even the pardon promiſed could not be obtained till the drudgery of ſwearing was over.

This being laid aſide, the whole matter is reduced to the papers ſaid to be found in my cloſet by the king's officers, without any other proof of their being written by me, than what is taken from ſuppoſitions upon the ſimilitude of an hand that is eaſily counterfeited, and which hath been lately declared, in the lady Car's caſe, to be no lawful evidence in criminal cauſes.

But, if I had been ſeen to write them, the matter would not be much altered. They plainly appear to relate to a large treatiſe written long ſince in anſwer to Filmer's book, which by all intelligent men is thought to be grounded upon wicked principles, equally pernicious to magiſtrates and people.

If he might publiſh to the world his opinion, That all men are born under a neceſſity derived from the laws of God and nature, to ſubmit to an abſolute kingly government, which could be reſtrained by no law, or oath; and that he that has the power, whether he came to it by creation, election, inheritance, uſurpation, or any other way,

(*r*) Idem ibid. (*s*) Collins, p. 158.

had the right; and none muſt oppoſe his will, but the perſons and eſtates of his ſubjects muſt be indiſpenſably ſubject unto it; I know not why I might not have publiſhed my opinion to the contrary, without the breach of any law I have yet known.

I might, as freely as he, publicly have declared my thoughts, and the reaſons upon which they were grounded; and I perſuaded to believe, that God had left nations to the liberty of ſetting up ſuch governments as beſt pleaſed themſelves.

That magiſtrates were ſet up for the good of nations, not nations for the honour or glory of magiſtrates.

That the right and power of magiſtrates in every country was that which the laws of that country made it to be.

That thoſe laws were to be obſerved, and the oaths taken by them, having the force of a contract between magiſtrate and people, could not be violated without danger of diſſolving the whole fabric.

That uſurpation could give no right; and the moſt dangerous of all enemies to kings were they, who, raiſing their power to an exorbitant height, allowed to uſurpers all the rights belonging unto it.

That, ſuch uſurpations being ſeldom compaſſed without the ſlaughter of the reigning perſon, or family, the worſt of all villainies was thereby rewarded with the moſt glorious privileges.

That, if ſuch doctrines were received, they would ſtir up men to the deſtruction of princes with more violence than all the paſſions that have hitherto raged in the hearts of the moſt unruly.

That none could be ſafe, if ſuch a reward were propoſed to any that could deſtroy them.

That few would be ſo gentle as to ſpare even the beſt, if, by their deſtruction, a wild uſurper could become God's anointed, and, by the moſt execrable wickedneſs, inveſt himſelf with that divine character.

This is the ſcope of the whole treatiſe; the writer gives ſuch reaſons, as at preſent did occur unto him, to prove it. This ſeems to agree with the doctrines of the moſt reverenced authors of all times, nations, and religions. The beſt and wiſeſt of kings have ever acknowledged it. The preſent king of France has declared, that kings have that happy want of power, that they can do nothing contrary to the laws of their country; and grounds his quarrel with the king of Spain, anno 1667. upon that principle. King James, in his ſpeech to the parliament, anno 1603. doth in the higheſt degree aſſert it: the ſcripture ſeems to declare it. If nevertheleſs the writer was miſtaken, he might have been refuted by law, reaſon, and ſcripture; and no man for ſuch matters was ever otherwiſe puniſhed, than by being made to ſee his error; and it has not (as I think) been ever known, that they had been referred to the judgment of a jury, compoſed of men utterly unable to comprehend them.

But there was little of this in my caſe: the extravagance of my proſecutors goes higher: the above-mentioned treatiſe was never finiſhed, nor could be in many years, and moſt probably would never have been. So much as is of it was written long ſince, never reviewed, nor ſhewn to any man; and the fiftieth part of it was not produced, and not the tenth of that offered to be read. That which was never known to

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thoſe who are ſaid to have conſpired with me, was ſaid to be intended to ſtir up the people in proſecution of the deſigns of thoſe conſpirators.

When nothing of particular application to time, place, or perſon, could be found in it (as has ever been done by thoſe who endeavoured to raiſe inſurrections) all was ſupplied by innuendo's.

Whatſoever is ſaid of the expulſion of Tarquin; the inſurrection againſt Nero; the ſlaughter of Caligula, or Domitian; the tranſlation of the crown of France from Meroveus his race to Pepin, and from his deſcendents to Hugh Capet, and the like; was applied by innuendo to the king.

They have not conſidered, that, if ſuch acts of ſtate be not good, there is not a king in the world that has any title to the crown he wears; nor can have any, unleſs he could deduce his pedigree from the eldeſt ſon of *Noah*, and ſhew, that the ſucceſſion had ſtill continued in the eldeſt of the eldeſt line, and been ſo deduced to him.

Every one may ſee what advantage this would be to all the kings of the world; and whether, that failing, it were not better for them to acknowledge they had received their crowns by the conſent of willing nations, or to have no better title to them than uſurpation and violence; which, by the ſame ways, may be taken from them.

But I was long ſince told, that I muſt die, or the plot muſt die.

Leſt the means of deſtroying the beſt proteſtants in England ſhould fail, the bench muſt be filled with ſuch as had been blemiſhes to the bar.

None but ſuch as theſe would have adviſed with the king's council of the means of bringing a man to death; ſuffered a jury to be packed by the king's ſolicitors, and the under-ſheriff; admit of jurymen who are not freeholders; receive ſuch evidence as is above-mentioned; refuſe a copy of an indictment, or ſuffer the ſtatute of 46 Edw. III. to be read, that doth expreſly enact, It ſhould in no caſe be denied to any man, upon any occaſion whatſoever; over-rule the moſt important points of law without hearing. And whereas the ſtatute, 25 Edw. III. upon which they ſaid I ſhould be tried, doth reſerve to the parliament all conſtructions to be made in points of treaſon, they could aſſume to themſelves not only a power to make conſtructions, but ſuch conſtructions as neither agree with law, reaſon, or common ſenſe.

By theſe means I am brought to this place. The Lord forgive theſe practices, and avert the evils that threaten the nation from them! The Lord ſanctify theſe my ſufferings unto me! and, though I fall as a ſacrifice to idols, ſuffer not idolatry to be eſtabliſhed in this land! Bleſs thy people, and ſave them. Defend thy own cauſe, and defend thoſe that defend it. Stir up ſuch as are faint; direct thoſe that are willing; confirm thoſe that waver; give wiſdom and integrity unto all. Order all things ſo, as may moſt redound to thine own glory. Grant that I may die glorifying thee for all thy mercies; and that at the laſt thou haſt permitted me to be ſingled out as a witneſs of thy truth, and even by the confeſſion of my oppoſers, for that OLD CAUSE in which I was from my youth engaged, and for which thou haſt often and wonderfully declared thyſelf.

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Upon the revolution, ſuch regard was had to his innocence, and the juſtice due to his memory, that the parliament made it one of their firſt acts to repeal his attainder, on the 13th of February 1688-9. the preamble to the act being in the following words:

'Whereas Algernon Sidney, Eſq; in the term of St. Michael, in 'the five-and-thirtieth year of the reign of our late ſovereign lord 'king Charles the Second, in the court of King's-bench at Weſtmin-'ſter, by means of an unlawful return of jurors, and by denial of 'his lawful challenges to divers of them, for want of freehold, and 'without ſufficient legal evidence of any treaſons committed by him; 'there being at that time produced a paper, found in the cloſet of the 'ſaid Algernon, ſuppoſed to be his hand-writing; which was not 'proved, by the teſtimony of any one witneſs, to be written by him; 'but the jury was directed to believe it, by comparing it with other 'writings of the ſaid Algernon: and, beſides that paper ſo produced, 'there was but one ſingle witneſs to prove any matter againſt the ſaid 'Algernon; and, by a partial and unjuſt conſtruction of the ſtatute, 'declaring what was his treaſon, was moſt unjuſtly and wrongfully 'convicted and attainted, and afterwards executed, for high treaſon: 'may it therefore pleaſe your moſt excellent majeſties, at the humble 'petition and requeſt of the right honourable Philip earl of Leiceſter, 'brother and heir of the ſaid Algernon Sidney, and of the right ho-'nourable Henry viſcount Sidney of Sheppey, the other brother of the 'ſaid Algernon, that it be declared and enacted, &c. That the ſaid 'conviction and attainder be repealed, reverſed, &c. And to the end 'that right be done to the memory of the ſaid Algernon Sidney, de-'ceaſed, be it further enacted, That all records and proceedings re-'lating to the ſaid attainder be wholly cancelled, and taken off the 'file, or otherwiſe defaced and obliterated, to the intent that the ſame 'may not be viſible in after-ages: and that the records and proceed-'ings relating to the ſaid conviction, judgment, and attainder, in the 'court of King's-bench, now remaining, ſhall and be forthwith 'brought into the court this preſent Eaſter term, and then and there 'be taken off the file, and cancelled.'

Biſhop Burnet's character of him is (*t*), 'That he was a man of 'moſt extraordinary courage, a ſteady man even to obſtinacy, ſincere, 'but of a rough and boiſterous temper, that could not bear contra-'diction. He ſeemed to be a chriſtian, but in a particular form of 'his own: he thought it was to be like a divine philoſophy in the 'mind; but he was againſt all public worſhip, and every thing that 'looked like a church (*u*). He was ſtiff to all republican principles, 'and ſuch an enemy to every thing that looked like a monarchy, that 'he ſet himſelf in high oppoſition againſt Cromwell, when he was 'made protector. He had ſtudied the hiſtory of government in all 'its branches, beyond any man I ever knew. He had a particular

(*t*) Hiſtory of his own Times.

(*u*) This the reader will underſtand with ſome allowance. That our author was an enemy to all the civil eſtabliſhments of chriſtianity, is very certain; but it does not follow from thence, that he was againſt all public worſhip. Milton was diſſatisfied with all national churches, thinking that they retained ſomething of popery in them, ſomething contrary to the ſimplicity of the chriſtian religion: and yet Milton's piety, and his belief of chriſtianity, could never be doubted of.

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'way of infinuating himſelf into people, that would hearken to his 'notions, and not contradict him.'

Several manuſcript treatiſes of his in Latin and Italian, and an "Eſſay "on virtuous Love," in Engliſh, are ſtill extant among the papers of his family at Penſhurſt: but his "Diſcourſes concerning Govern-"ment," which alone will immortalize his name, were printed at London, in 1698. in folio, and reprinted there in 1704. and the preſent edition is the third of this noble work, which, as the author of "Free Thoughts in Defence of a Future State" (*w*) obſerves, ſufficiently ſupplies the loſs of Cicero's ſix books "de Republica," which has been ſo much regretted by men of ſenſe and probity. In ſhort, it is the nobleſt book that ever the mind of man produced; and we cannot poſſibly wiſh a greater or more extenſive bleſſing to the world, than that it may be every-where read, and its principles univerſally received and propagated.

(*w*) P. 66. Edit. London. 1700. in 8vo.

THE APOLOGY OF ALGERNONE SYDNEY, In the Day of his DEATH *.

BEing ready to dye under an accuſation of many crimes, I thought fit to leaue this as a teſtimony unto the world, that, as I had from my youth endeauoured to uphold the common rights of mankind, the lawes of this land, and the true proteſtant religion, againſt corrupt principles, arbitrary power, and popery, I doe now willingly lay downe my life for the ſame; and hauing a ſure witneſſe within me, that God doth abſolue, and uphold me, in the utmoſt extremityes, am uery littell ſollicitous, though man doth condemne me.

I am noe wayes aſhamed to anote, that, from the yeare 1642. untill the comming in of the king, I did proſecute the aboue-mentioned principles; and hauing then finiſhed to the aduantage of all Europe, and the honour of this nation, a negotiation, upon which I had been imployed in the north, choſe rather to remaine beyond the ſeas, then to returne into my owne country, though general Monk, upon the acount of many obligations receaued from me, did deſire me to returne, with large offers of all the aduantages he could procure for me.

I well knew his power, and did not doubt of his intentions; but, though I thought it my duty to ſubmit unto the prouidence of God, in the ſtrange reuolutions brought amonghts us, through the unſearcheable councels of his will, durſt not recead from the wayes of righteouſneſſe; and through his grace was able to reiect the rewards of iniquity.

It being acknowleged, that though I had euer oppoſed the then triumphing party, noe man had euer ſhewed himſelf to be a fairer enemy, and that I had done many perſonall, and moſt important ſeruices, as well to the royall family, as unto ſuch as depended upon it, I hoped that noe man would ſearch into my preſent thoughts, nor ſo far to remember my former actions, as to diſturbe me in a

* Now firſt publiſhed from the original written with his own hand. The reader will find a difficulty in underſtanding ſome words; but the editor does not think himſelf at liberty to make any alterations.

moſt

moſt innocent exile; and that the moſt malicious of my enemyes ſhould not pretend that I practiced any thing againſt the gouuernement, I made Rome the place of my retreact, which was certainly an ill ſcene; to act any thing, that was diſpleaſing unto it.

But I ſoone found, that noe inoffenſiuineſſe of behauiour could preſerue me againſt the malice of thoes, whoe ſought to deſtroy me; and was deffended from ſuch as there deſigned to aſſaſinate me, only by the charity of ſtrangers.

When the care of my priuate affaires brought me into Flanders and Holland anno 1663. the ſame dangers accompained me; and, that noe place might be ſafe unto me, Andrew White, with ſome others, weare ſent into the moſt remote parts of Germany, to murther me. 1663

The aſperity of this perſecution obliged me to ſeek the protection of ſomme forraine princes; and, being then in the ſtrenght of my age, had reputation enough to haue gained honourable imployments; but all my deſignes weare broken by letters and meſſages from this court, ſoe as none durſt entertaine me; and, when I could not comprehend the grounds of dealing with me in ſuch a way, when I knew that many others, whoe had bin my compaignons, and given (as I thought) more juſt cauſes of hatred againſt them, then I had done, weare receaued into fauour, or ſuffer'd to liue quietly, a man of quality, whoe well knew the temper of the court, explained the miſtery unto me, by letting me know, that I was diſtinguiſhed from the reſt, becauſe it was knowne, that I could not be corrupted.

Noe man could haue thought it ſtrange, if this has caſt me into the utmoſt extreamityes; and perhaps occaſions of being reuenged would not haue been wanting, if I had ſought them; but, inſtead of that, I caſt myſelf into unſuſpected retirement in the moſt remote parts of France, wheare I paſſed aboue eleauen yeares, and was drawne out of it only by a deſire of ſeing my aged father before he died, and obtained the king's paſſeport for my ſecurity.

My father dyed within a few weeks after my comming ouer; and, when I prepared myſelf to returne into Guaſcony, there to paſſe the remaining part of my life, I was hindered " by earl of Liceſter my " brother, who queſtioned all that my father had giuen me for my " ſubſiſtance; and" by a long and tedious ſuitte in ſhancery, detained me in England, untill I was made a priſoner; when a fauorable decree, obtained in ſhancery, gave me hopes of being freed from ſuch uexatious buſineſſe.

I reaſſumed my former deſigne of returning into France; and to that end bought a ſmall parcell of ground, in a friend's name, with an intention of going immediately unto it: this proceeded from the uneaſineſſe of my life, when I found, that not only the reall diſcontents, that grew to be too common, weare aſcribed unto me, but ſham plots faſtened upon me, ſoe as I could neuer think my life a day in ſafety.

Not long after the diſcouery of the popiſh plot, his majeſtye was informed of a great plot of the nonconformiſts, and that I was at the head of it; and though (being admitted unto his mageſtye's preſence) I did truly ſhew unto him, that there neither was nor could be any thing of that nature, as things then ſtood; becauſe it would caſt his mageſtye

mageſtye into conjunction with the popiſh, which they did moſt abhorre; the ſham was continued, as apeares by the mealetub buſineſſe: though my name was not there found, I am well informed, that, *if* it had ſucceded, I ſhould haue bin inuolued in it.

Other wayes weare inuented to uex and ruine me; when I only looked ouer a balcony to ſee what paſſed at the election of the ſheriffs of London, I was indicted for a riot.

In Aprill laſt I was told by a perſon of eminent quality, uirtue, and underſtanding, that I ſhould infaillibly be made a priſoner. I aſked upon what pretence: he alleagued ſomme things that weare entirely friuolous, relating unto uild perſons, whoes faces and names I did not know; but concluded ſomme or other would be found; and that, if I was once taken, it mattered not for what cauſe; it being impoſſible to auoide condemnation, before ſuch judges and juryes as I ſhould be tryed by.

About the middell of June the towne was full of rumours of a plot, ſayd to be diſcouered by Keeling, and not long after by Weſt: ſomme perſons fled, and a proclamation iſſued to haue them apprehended; my name was in euery coffee-houſe, and ſeueral informations weare giuen me, that I ſhould certainely be ſeaſed: I mentioned this to ſeuerall perſons; but, knowing no raiſon why I ſhould abſend myſelf, reſolued not to do it; and continued in that minde, though I was told, earely in the morning one the 26 of June, that the duke of Monmouth was retired, and coll. Rumſey had rendered himſelf.

This concerned me ſoe littell, that I ſpend that morning upon my uſuall ſtudyes, or entertaining ſuch freinds as came to ſee me; and, whileſt I was at diner, a meſſenger came and areſted me in the king's name, by an order from four lords of the privy councell. Immediately after Sir Philipe Floyed came, with another order from the ſame lords, to ſeaſe my papers: he ſearched many ſecred places, but did not finde one that he thought fit to take, exept ſuch as lay openly upon my table, or in a trunck that had not bin ſhud in ſomme yeares: when he had ranſaked all, and put what he pleaſed into a trunk and pillowbear, he would haue perſuaded me to put my ſeale unto them; but I, remembring what had paſſed at collonell Manſell's lodging, and ſomme other occaſions of the like nature, refuſed to doe it; whereupon he put his own ſeale, but promiſed, that they ſhould not be opened, unleſſe it weare in my preſence; which was obſerued as other promiſes of that nature haue bin; for I never ſaw the ſayd trunk or pillowbeare to this day. From my owne houſe I was carried to the meſſengers, and from thence to Whitehall, before the four lords, by whoes order I had bin apprehended.

The lord keeper aſked me ſomme queſtions concerning Sir John Cockeram, and Aron Smyth, unto which I returned anſweares with all the reſpect I could, without preiudice unto the truth; and, when I thought that I had giuen full ſatisfaction, was taken into the cuſtody of a ſerieant at armes, and, by a warrant from Sir Lionill Jenkins, committed to the tower for high treaſon, and there detained a cloſe priſoner. Within a few days after my houſe, mony, horſes, goods, and chattels, weare ſeaſed both in the towne and country, which I take to be contrary to the lawes of the land, in thees three points:

firſt,

firſt, it is expreſſely ſayd in magna charta, confirmed by aboue thirty parliaments, and many other ſtatutes now in force, that noe man ſhall be impriſoned, unleſſe it be by the judgment of his peeres, upon the teſtimony of tow credible witneſſe, or his own free confeſſion, without force or violence, wheareas heare was noe indictement or witneſſe produced untill the 7 of November: and, though extreame violence was uſed to me, I confeſſed noe crime at all. 2dly, The law of England appoints impriſonment "in cuſtodiam, not in pœnam," acknowledges noe cloſe impriſonement; wheareas I was kept with the moſt extreame rigour, to the great preiudice of my health, and almoſt deſtruction of my life, without any conſolation from my freinds, untill a few dayes before my tryall. 3dly, The law of England admits of noe ſeiſure of goods till after conviction, wheareas diuers lewd fellowes weare put into my houſe, whoe, beſides many inſolencies committed, did (as I am informed) felonioufly take away my coaches, ſeveral parcells of goods, and ſomme mony, long before any indictement was exhibited againſt me; and, though I made ſeueral adreſſes unto the king and councell, for the remouall of thoes violences, could obtaine noe reliefe. November the 6 I receaved notice from the lieutenant of the tower, that an habeas corpus was brought unto him, and a command to bring me the next day before the king's bench; and I was accordingly brought into the pallace-yard of Weſtminſter, between ten and eleven the clock in the morning, before the grand jury was aſſambled, or the king's councell could know the bill would be found, unleſſe they had the faculty of diuining, or held ſuch an intelligence with the grand jury, as utterly overthrowes all juſtice.

The bill being found, I was immediately hurried to the bar, throught a ſtrong guard of ſoldiers, to be arraigned: the bill was read in Engliſh, and in Latin: I found it to be uery long, perplexed, confuſed, and containing a heap of crimes, diſtinct in nature, diſtinguiſhed from each other by lawes relating unto ſeueral ſtatutes, which required ſeuerall conſiderations: noe ouert act was preciſely ſet forth, with its due circumſtances; noe man named, with whome I was ſayd to haue conſpired; the meetings to conſpire weare ſayd to be one the 30th of June, and many other dayes both before and ſince; wheareas I was then, and had bin ſomme dayes before, and ever ſince, a cloſe priſoner: hereupon I deſired the aduice of councell, to frame exeptions againſt the bill, profeſſing, that to me it ſeemed to be uoide, as many had bin declared to be ſoe, and particularly that of the duke of Sommerſet. I inſtanced, that the court had allowed unto Sir H. Uane the liberty of making his exeptions, and pleading over, which the lawes allowes in matters of life; but all was refuſed, without any other reaſon then the will of the judges. I then deſired councell to frame a ſpeciall plea, opening, as well as I could, the ſcope of it; but could obtaine nothing: and, laſtly, when I offered a ſpeciall plea, ready engroſſed, the court would not receaue it, unleſſe it might be peremptory, declaring, that if it weare ouer-ruled, I ſhould be noe further heard; which condition I was not willing to accept of, inaſmuch as, though I belieued my plea to be good, I was more confident of the merits of my cauſe; and, leaſt I ſhould be depriued of the benefit of pleading, was forced to comme to the generall iſſue.

This proceeded meerely from my owne ignorance in the ſawe, and want of councell, which if I had had, the court could not haue impoſed ſo notorious a fraud upon me, as to make me belieue, that I could not be admitted to plead not guilty, if that ſpeciall plea came to be ouer-ruled; every one that is any-wayes verſed in the lawe knowing, that I might doe it without danger. If it had bin receaved, the court would have bin obliged to cut of thoes intricacyes, ambiguityes, by which I was entangled, the jury brought to bring in a veredict wich they did not underſtand; or impudently, in the face of the world, to have ſhowne, that they had noe conſideration of lawe or common ſenſe; and whatſoeuer they did, might then haue comme to the generall iſſue. Being driuen upon theis extremityes, by the uiolence and fraude of the ch. juſtice, whoe threatened, that judgement of treaſon ſhould be immediately entered, if I did not comme to the general iſſue, I was forced to plead not guilty, and theareby loſt the aduantage, which weare neuer to be recouered, unleſſe the judges could haue bin changed: they, whoe knew I could neuer be condemned upon ſuch euidence, as, by conſulting with the king's councell, they knew would be produced, unleſſe the matter could be rendered unintelligible by a common jury, reſolued againſt any thing that ſhould explaine it, or make the truth to appeare, and would neuer ſuffer me to get out of the ſnare in which they had caught me.

The court, for faſhion-ſake, allowed me a fortnight to prepare for my tryall; but, leaſt the fraud or errours of the indictement ſhould be diſcouered, as that time might be of any benefite unto me; the coppy of it, and the help of counceli, weare again denyed, unleſſe I could tell upon what points in lawe I would deſire theyr aduice; theis was noe leſſe then to enioine impoſibilityes, hauing neuer ſtuddyed the lawe: I was utterly ignorant of it; the indictement was ſoe long, perplexed, and intricate, that the ableſt lawyers could give me but a very imperfect account of it upon hearing, thought the wholle contexture of it ſeemed to be ſuch as was not to be upheld by lawe; it was hard for them juſtly to fixe upon the wayes of ouertrouing it, when the exeptions, and the ſpeciall plea that I offered, had bin rejected, unleſſe they had had it before them, and nicely examined it; much leſſe could it be done by me, whoe am utterly unexperienced in thoes matters. Mr. Atturney had then ſoe much confidence, and ſoe littell charity, as oppenly to auow, that I ſhould not haue councell, leaſt they ſhould furniſh or teach me the points of lawe that I might inſiſt upon. This appeared ſtrange unto all thoes whoe haue any knowledge of the lawes of God or man, and that are not equaly depriued of charity and humanity. The obtaining of juſtice is the end of the lawe, and truth the rule of it: heareupon it is agreed by mankinde, that euery man ought to know his accuſation, that he may know to direct his deffence, or receave aduice, if he be ignorant in it. It is an abſurd peruerſion of all lawe, to ſay, that I heard it read; when it was rendered ſoe long and intricate, that neither I, nor any other man, was, upon reading, able to comprehend it. One of the worſt acts that weare imputed unto Calligula, the worſt and beaſeſt of men, was, that he cauſed edicts to be written in a hand, and ſet up in a place wheare noe man could read them: heareby he turned the

lawe

lawe into a ſnare, and deſtroyed thoes whoe did not conforme themſelues unto the rule they neuer knew: they fall under the ſame condemnation whoe make accuſations obſcure, and ſuffer them not to be examined, leaſt they ſhould be underſtood. To euade this, my proſecutors falſely pretend, that noe ſuch priuiledge is allowed to priſoners in England: but, beſides that naturall and univerſal rule of juſtice, which can be oueruled by noe municipall law, I did produce the ſtat. of 46 Ed. III. which doth plainely enact, that all men, in all caſes, wheather they be ſuch as fall out againſt the king, or any others, ſhall have coppy of ſuch records as are againſt them; and ſhewed, that the parliament, whoes example all other courts ought to followe, had allowed unto the earl of Strafford, the earl of Danby, the lord Stafford, and the popiſch lords now in the tower, coppyes of their indictement: and, if it had bin pretended, that ſuch a priuiledge was allowed only unto peeres, I was ready to ſay, that, thought I am not a peere, I am of the wood of which they are made, and doe not find, that our anceſtors weare leſſe carefull of the liues of commoners, then of peeres, or that one lawe is made for them, and another for us; but are all entirely under the ſame lawe, and the ſame rules.

I confeſſe that, at the time of my arraignement, I was not fully prouided with arguments and proofes of this matters; but when I came to my tryall, had thoes that weare abundantly ſufficient: neuertheleſſe the ch. juſtice (whoe, by his oath, and the king's, ought to haue informed of that lawe, if I did not know it) would not ſuffer the ſtat. to be read, when I produced an authentike coppy of it, nor allowe me the coppy of my indictement, which, according unto the true meaning and expreſſe words thereof, I demanded.

Thought I was thus irregularly hurried unto tryall, I thought that my birth, education, and life, might haue deſerued a jury of the principal knights and gentlemen that weare freeholders in Middleſex; or, if that rule weare broken, the moſt eminent men for quality and underſtanding, reputation and uirtue, whoe lived in the county, tho' they had not freeholds, might haue bin taken to fill up the pannell: the importance and difficulty of the matter in queſtion ſeemed farther to enforce it; but, when a coppy of the pannell was ſend unto me, I found that all rules of decency, diſcretion, and humanity, had bin neglected, as well as thoes of lawe; the bailifes had not bin ſuffered to ſummon ſuch of the freeholders, in their ſeuerall hundreds, as ſeemed moſt fit for ſuch a ſeruice; but receaued orders to ſummon by name ſuch as Graham and Burton had, with the under-ſheriff, agreed upon: the coppy of the pannell was ſend unto me before one of them was ſummoned; and, if I am rightly informed, ſomme of the beſt being put in only for faſhion-ſake, did neuer receaue any ſummons; but ſure I am they did not appeare.

The life I haue led might haue giuen me ſomme kinde of knowledge of ſuch as reaſonably might be thought fit to be my judges; but I did not know the face of one, nor the names of more then three of the wholle pannell, and they laſt, as did not appeare: upon examination I found, that they had not only put in uery many that weare not freeholders, but picked up a rabble of men of the meaneſt callings,

ruined

ruined fortunes, loſt reputation, and hardly endowed with ſuch underſtanding, as is required for a jury in a "niſi prius" court for a buſineſſe of fiue pounds.

This might haue bin a littell mended by ſifting, if the reaſons alleaged againſt ſuch as weare the king's ſeruants in pay, wanted freehold, or, for ſomme act ſpecifyed, weare notoriouſly infamous, had bin accepted; but, the lord chief juſtice being pleaſed, without pretence of law, reaſon, or precedent, or ſuffering the point of lawe concerning freehold to be argued, to reiect my exeptions, I was forced to challenge them peremptorily, whom I knew to haue bin choſen to deſtroy me; and was thereby depriued of the benefite allowed by the lawe, and forced to admit of others moſt like unto them (whereas it is ſayd, that I reiected men of quality, and took ſuch as weare mean, I doe profeſſe, that I doe not know of a man, family, name, or fortune, upon the pannell, but Mr. Burta, Sir Charles Gerard, and Mr. Hawtry, whome I reſolued to haue accepted; and, if I did challange any other like unto them, it was meerely by miſtake); and, to embroile the minds of a jury thus conſtituted, the king's councell produced Mr. Weſt, colonel Rumſey, Keeling, and Sir Andrewe Foſtere, to tell ſtoryes upon hearesay: the three firſt ſpake of a plot betweene themſelues and others, in which I was noe more concerned, then that they, whoe had not reputation to carry one ſuch a work, weare willing to make people belieue, that I, and ſomme that had more, weare engaged in it. This, in truth, did uery much tend to my juſtification; for it is not to be immagined, that, if I had bin engaged in their deſignes, I ſhould not rather haue communicated with Weſt and Rumſey, then ſuch meane perſons, as weare hardly in a diſtance of being knowne by me: and Foſter's depoſition went noe farther, then that, as the lord Howard ſayd, ſomme Scotch gentellmen weare deſired to comme up upon a pretence of treating concerning Carolina: ſomme did comme to treat of the ſame, but of me, or any correſpondence between me and them, he ſays not a word. The lord Howard's depoſition was uery rhetoricall, but nothing at all to the preſent purpoſe: tho indictement ſet forth a conſpiracy on the 30. of June, whearein I, and diuers others to the jury unknowne, did then, and many other dayes both before and after, in the pariſh of St. Giles, not hauing the feare of God before our eyes, at the inſtigation of the diuell, had traiterouſly conſpired the king to depoſe and kill; the gouuernement to ſubuert, to leauy war, and a cruell ſlaughter of his ſubiects to make, and, in order heareunto, had written a falſe and ſeditious libell or book to ſtirre up the people.

The witneſſes produced by me weare three eminent peeres, tow gentelmen of gread quality, couſin germains of the lord Howard, a doctor of diuinity, a Frenſh gentelman, tow of my ſeruants, and a very conſiderable citizen: ſix of this did depoſe, that the lord Howard, with hands and eyes lifted up to heauen, and calling God to witneſſe, had moſt ſollemly declared he knew of noe plot; belieued there was none; took that which is mentioned, to be a ſham inuented by the prieſts and jeſuits, and the more dangerous for being a ſham, becauſe noe man knew wheare it would end: four of them ſayd expreſſely,

preſſely, he had, with the ſame aſſeuerations, declared his confidence, that I knew of none; for that I was ſo much his friend, that, if I had knowne of any, I would haue communicated it unto him.

Before I was brought to my tryall, I had ſet downe a certaine methode to be kept in making my deffence, and twelue points of lawe to be argued by councell, or ſaued to be found ſpecially, if the jury did finde any fact againſt me; but all was inuerted by the uiolence of the chief juſtice, whoe perpetually interrupted me; and was obſerued ſoe well to chooſe his time of breaking of my diſcourſe, as neuer to ſuffer me to finiſh any point that pinſhed too hard upon the undue practices of my proſecutors, or moſt conduced to my defence: whenſoeuer I cited a lawe, or a judged caſe, that made for me, or propoſed a point of lawe to be argued or reſerued, he would tell me it was nothing to the purpoſe; they had already determined it; and obliged me to be ſilent; then I theareupon ſayd it was to noe pourpoſe to ſpeak, if law, reaſon, and truth, weare not regarded. He told me, that if I would not ſpeak, they knew how to proceed.

When, by the impudence of his extrauagance, I was driuen into theis ſtreights, I ſaw noe better waye then to ſhewe, that the only witneſſe againſt me was the lord Howard; and he could deſerue noe credite; that hauing, at the lord Ruſſell's trialls, acknowledged, that the religious obligation of an oath did not conſiſt in the outward adminiſtring of it, but the calling of God to be a witneſſe unto it; that he had there, as in the preſence of God, aſſerted things inconſiſtent with what he had then ſworne (ſoe as Mr. Howard ſayd it was impoſſible that what he ſayd unto him, and what he had then ſworne in the court, could be true, unleſſe his lordſhip had one ſoul on Sunday, and another on Munday); that he had theareby ſworne himſelf periured, which was beyond any legall conuiction, and ought to deſtroy his teſtimony, as well as if he had been legaly conuicted.

That he had now added new periuries unto the formers, in ſwearing things different from, and inconſiſtent with, what he had ſworne againſt the lord Ruſſell; and then concluded, that he knew noe more.

That, being under the guilt of many confeſſed crimes, the terrours of death, the deſpaire of obtaining a pardon, unleſſe it weare by the drudgery of ſwearing, as was teſtified by Mr. Blake, or doing other jobs, as had bin ſayd by Hunt and Barrowes, whoe durſt not appeare, though ſuppœnas had been ſent them; he did in effect confeſſe his former crimes weare to be redeemed only by committing more; he ought not to be credited; that he was my debtor; and, hauing defrauded me in the matter, and for the mony, with which I had truſted him, comming to my houſe under the name of a friend, he had endeuoured to get my plate, and other things of ualue, into his hands.

That the matter of his depoſition was as abſurd and impoſſible as falſe; that the ſix, which weare ſayd to be a ſelect councell, weare ſelected by noe man; that they, not being choſen by any, could not erect themſelues into a cabal, to manage ſuch buſineſſe as weare by noe man committed unto their charge: that they did not knowe, and could haue noe confidence in one another; that I had neuer ſpoken unto the duke of Monmouth untill he brought the ſaid duke to dine with me by a cheat put upon us both a few dayes before the pretended

meetings; that, upon ſuch occaſions, when men did enuite themſelues to conſpire, they did ever chooſe ſuch as they truſted, and could help forwards the deſignes for which they did conſpire: that the lord Howard was truſted by none of them, and was ſoe far from being able to doe any thing towards ſuch an end, that he durſt not ſay he could bring fiue men into the field, furniſh fiue pounds by his purſe or credite, or knew how to command them if they weare brought together by any other: that, if he ſaid the ſame thing of me, I might confeſſe it; and did confeſſe, I did not knowe fiue men in England that would followe me; and could haue ſayd uery much more, if I had not bin hindered by the chief juſtice his frequent interruptions.

That, his depoſition being deſtroyed, nothing remained; or though, contrary to lawe and reaſon, it weare receaued, it could be of noe value, being ſingle.

That noe uſe could be made of the papers ſayd to be found in my houſe: that, though the gouuernement of France is ſayd to be uiolent, noe uſe could be made of many papers of moſt dangerous conſequence, ſayd to be taken in Mr. de Fouquet's houſe, by the king of France his officers; and the error of not inuentorying them, in the preſence of ſomme perſons truſted by him, was neuer to be repaired, and he had bin ſaued by it: that noe man ſaid I writ them, and ſimilitude of writing, in criminal caſes, could be noe euidence, as appeared by the judgement of the chief juſtice Keeling, and the wholle court, in the lady Car's caſe.

That, whoeſoeuer writ them, they appeared to be only ſomme ſcraps of a large treatiſe, in anſweare to Filmer's book, which, being full of abominable maximes, might be oppoſed by any man: the like hauing bin written by me, one White a prieſt, in fauour of Cromewell, when he was in poſſeſſion of the power, he, though a tyrant, abominated it, and a gentelman who preſented it: that, if I had written and publiſhed a book, I muſt be anſwearable for the contents of it, the wholle being conſidered; but, when a few ſheets, relating unto ſomme hundreds mentioned in them, weare produced, not only the ſcope of the wholle remained unknowne, but the antecedents and conſequents of the words they had read, being kept ſecrets, noe man could ſay wheather this work weare good or euill, true or falſe: that, when I deſired thoes papers brought into the court ſhould be all read, it was abſurdly propoſed, that I ſhould name the paſſage; I, not knowing any word that was in them: that the ink and paper did euidently ſhew they weare uery old, and it was impoſſible they ſhould haue any dependence upon buſineſſe pretended to be now in agitation; ſuch as had bin written many (perhaps twenty or thirty yeares agoe), could not relate unto the pretended conſultations within ten moneths.

That noe tribunall did euer take notice of a man's priuate, crude, and undigeſted thoughts: that, though the inquiſition is the worſt and moſt bloody tribunall that hath bin knowne in the world, I neuer feared to writte what I pleaſed againſt the religion there profeſſed, when I liued under it; and, though it raged in Spaine more then any other place, noe monk could be queſtioned for any ſuch writings, though they contained the moſt dangerous hereſyes, if not publiſhed; and it weare enough for him that had written them, to ſay, that he was perhaps

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miſtaken. This being ſoe, ther is neither matter nor euidence; the lord Howard's teſtimony is nothing in itſelf, and cannot be ſupplyed by that which is alſo nothing, or, if it weare to be receaued by itſelf, could haue noe relation to the conſults of which he accuſeth me. I muſt euer inſiſt upon the lawe of God giuen by the hand of Moſes, confirmed by Chriſt and his apoſtles, whereby tow witneſſes are neceſſarily required to euery uord, and euery matter. This is receaued by all that profeſſe the name of Chriſt, and ſoe underſtood by all, that noe man in any place can be put to death, unleſſe tow or more teſtify the ſame word or thing: the reaſon of this is not becauſe tow or more euill men may not be found, as appeares by the ſtory of Suſanna; but becauſe it is hard for tow or more ſoe to agree upon all circumſtances relating unto a lye, as not to thwart one another: and whoeſoeuer admits of tow teſtifying ſeuerall things done or ſayd at ſeuerall times or places, conducing, as is ſayd of late, unto the ſame ends, deſtroyes the reaſon of that lawe, takes away all the deffence that the moſt inocent men can have for their liues, and opens a wide gate for periury, by taking away all poſſibility of diſcouering it; theis would be far more miſchieuous in England, wheare there is noe lawe of retaliation, then others countryes, wheare a falſe witneſſe undergoes the ſame puniſhment as ſhould haue bin inflicted upon the accuſed perſon, if his words had bin found true; but the lawe of England doth require tow witneſſes unto the ſame thing, in the ſtatut. Ed. VI. whereby compaſſing, by expreſſe words, to depoſe the king is made penall by forfeiture of goods, &c. and the ſtat. 3 Eli. 2. & 13 Car. 22. enacting, that conſpiring to leuy war ſhould be treaſon; neceſſarily required two witneſſes for the proofe of it, the admiſſion of tow teſtifying things paſſing at ſeuerall times and places, is but a new inuention: the lords weare brought to ſwalloweit at the lord Stafford's tryall, by the perfect concurrence of the teſtimonyes of Turuile and Bugdale, in the ſame thing, vid. murthering the king, though the one was in France, the other in Staffordſhire; but if that, which was then perhaps too farre ſtrained, be carried ſoe much farther, as to extend to any thing that theis gentelmen ſhall fancy may conduce unto the ſame end, ther is noe ſaffetye in the lawe, and noe man can be found innocent, unleſſe he pleaſe, as was ſayd by one of the worſt magiſtrates that euer was in Rome in the worſt time, "ſcituros neminem ſe inuito reperiri poſſe "inſontem," Sig. de imp. occ. that though ther weare ſuch a number of witneſſes as the lawes of God and man require, and they of credite, noe crime is fixed upon me that is or hath euer bin declared to be treaſon by the lawe. It is ſayd in the indictement, that I conſpired the death of the king; but noe man ſayd, that any mention was euer made of it in my preſence; euen the king knowes I am not a man to have any ſuch deſigne; and I am noe more capable of it then of eating him, if he weare death: I think I may ſay, I did once ſaue his life; but I am ſure I neuer endeauoured to take it away: if the meetings mentioned were to be taken for conſpiracyes againſt his majeſtyes life, ſomething muſt haue been there propoſed and reſolued concerning the wayes, manner, time, place, or perſons, by whome it ſhould be effected; of which not one word is pretended, nor that he was ſoe much as named.

That

That conſpiracyes take their denomination from the thing that the conſpirators endeauour to compaſſe; and noe man weare euer ſayd to conſpire to do that which was neuer ſpoken of amonght them.

That the compaſſing of the king death, declared to be treaſon in the firſt branſh of the ſtat. 25 Ed. III. was meant his corporall death, inaſmuch as, in his politike capacity, he can neuer dye; and cannot be implyed by the branſh relating unto the leuying of war, which is an act diſtinct in nature, and diſtinguiſhed by lawe from it: the authorityes of Cooke and Hales weare alleaged to proue this diſtinction, that to leuy war was not to compaſſe the death of the king; and, being treaſon of differen ſpecies, the ouert act of the one could not be the ouert act of the other: that conſpiring to leuy war, was not treaſon of itſelf, nor by implication, as appeared by ſeuerall temporary acts of the 1 of Mar. 13 Eli. 13 Car. 26. and others, wheareby, after a certaine time during their liues, to conſpire to leuy war is made treaſon, which had bin impertinent; if it had been euer ſoe by the antient ſtat. of 25 Ed. III.

The caſe of Sir H. Vane was alleaged, whoe, thought he had bin an eminent man in all the councells relating unto the firſt war, by which the late king was brought to death, it was neuer imputed unto him, becauſe euery man knew he had noe hand in it; and, thought he did not deny but he had the like part in the war continued againſt his mageſty now raigning, he could not be conuicted without proofe of his appearing with a regiment in Southwark: but, as to the preſent caſe, here is neither king brought to death, nor war leuyed, nor any thing done in relation to either. It. heare is nothing but a meeting acted ... a conſpiracy whearein it is not ſoe much as pretended, that the matter, which they are ſayd to have conſpired, was euer mentioned; and ſhew war my accuſers dreame of, was to be made without men, mony, armes, ammunition, officers, ſoldiers, places, or any thing done towards the prouiding any of them. Much might haue bin heareupon ſayd concerning the incongruity, uanity, falſity, and abſurdity, of the lord Howard ſtoryes: at the lord Ruſſell's tryall he made the foundation of the councill of ſix to haue bin in proſecution of the earl of Shafteſburye's deſignes; and there apprehenſions, that a buſineſſe knowne to ſoe many, could not continue ſecret; and pretended their end to haue bin, to adiuſt, with much fineneſſe, a buſineſſe conſiſting of many pieces; whereas it doth appeare, that any of the ſix (except himſelf) knew any thing of what that earl had deſigned; but certaine it is, that none of them had in a long time had any communication with him: the duke of Monmouth and himſelf thought him to be mad. I could ſay much of the earl of Eſſex his thoughts of the ſame kinde; and, beſides the knowne diſlikes which he had unto me, and I unto him and his wayes, I did not ſee his face in allmoſt a yeare before he went out of England, and had no communication with him afterwards; noe man but the lord Howard had to this day explained the uaſt deſignes that weare then knowne to ſoe many, that they could not be concealed; and he had not told the name of one of the ten thouſand briſk boys, that weare to doe ſuch wonders. If he ſay true, nothing was done to adiuſt with ſuch fineneſſe the buſineſſe of many pieces, beyond the moſt common diſcourſes;

and

and noe word fixed upon any man exept the duke of Monmouth, whoe was of opinion, that a rabble could not reſiſt a well metodized army. A ſcoller, that knoweth not the difference betweene metode and diſcipline, might giue ſuch a tearme unto the right ſoldiers of an army; but he that attributes it unto a ſoldier, ſhewes, that the wholle is an inuention of his owne.

The mennagement of this affaire by the councill, or cabal, was equall unto the reaſons of forming it; not one of thoes pieces weare taken into a conſideration: noe care taken of prouiding men, armes, amunition, or places; noe mention madle of any correſpondance in citty or country, and mony, which was the principall point, was ſpoken of only jocoſely, or by the waye of mirth.

This is a new way of carrying on the greateſt buſineſſe in the world, and, if it weare true, could only ſhew, that the ſix weare as mad as ſomme of them thought the earl of Shafteſburye; but, if the reputation that ſomme of them haue or had in the world, be compared unto that of the lord Howard, it will be, thought more probable that he is a lier, then that they weare fooles.

The reſt of the romance is ſuitable unto this: he ſaith, that a correſpondance was reſolued with the earl of Argile; but doth not ſay how, by whome, when, or why. The matter relating unto the other Scotchmen is not leſſe crude; ſuch as beſt underſtood matters of Scotland ſhould be ſend for: a canting letter written, and ſend by Aron Smith; but he neither tells certainly whoe writ the letter, to whome it was directed, what weare the expreſſe words or contents of it, nor wheather it was euer deliuered, or not; and he was ſoe careleſſe of this important affaire, as not to remember the names of men; and he, that ought to be ſatisfied they weare fit for ſuch a work, was forced to learne the name of Sir Cambell, by deſcription, which is impoſſible: noe man can know the likeneſſe of a picture, unleſſe he know the man for whome it was drawne; nor by deſcription him that he doth otherwiſe knowe: the laſt part of that ſtory agrees well enough with the reſt. Hauing embarqued himſelf and his friends in this uaſt buſineſſe, and aduanced it ſoe far as you haue heard, he thought that all was well, and it did not deſerue his farther care: he lay idle at the leaſt ten weeks in London, or at Knightſbridge, contenting himſelf only in aſking me, wheather Aron Smith was gone; and then thought himſelf more concerned in uiſiting a mannor of about tow hundred pounds a yeare in Eſſex, then aduancing the buſineſſe of war and ſtate that he had undertaken: after hauing for a while loitered there, with the ſame indifference and ſerenity of minde, he made another journey to the Bath: this is the parentheſis he mentions, that laſted almoſt ſix moneths: ſomme may impute it to the ſedate conſtancy of a philoſopher, others to the ſtupidity of a beaſt; but whoeſoeuer conſiders the nature of the thing, and the temper of the perſon, can neuer belieue, that a wiſe or virtuous man could ſoe ſhamefully neglect the moſt important intereſt of his freinds or country; and ſuch as know how much his lordſhip, through a moſt tender loue unto himſelf, is concerned in the moſt triuiall affaires that relate unto his perſon or intereſt, will as litteli think he could be ſoe well at leiſure, as not look after thoes that came ſoe neare unto his life and fortune, if any ſuch

had bin then in agitation. "Oportet mendacem eſſe memorem." If the prouerbe be true, that liers ought to haue good memoryes, his lordſhip, at my tryall, ought to haue thought of what he had ſayd at the lord Ruſſell's; and, if the ſtory had bin too long to be exactly related, he might haue had recourſe unto that which is in print. Sir H. Vane the elder, and others, being examined at the earl of Straford's triall, deſired to ſee their firſt examinations taken in writing, leaſt they might faile in any word; and the proſecutors, as well as judges, ſeeking nothing but truth and juſtice, allowed it. If the ſame ends had bin now ſought, he might haue read out of the book what he had ſayd at his firſt tryall, and ſuffered to ſay noe more: but the drudgery of ſwearing was not ouer; ſomme other jobs muſt be done, before he could haue his pardon; that which he had ſayd was not enough; and, notwithſtanding his oath, that he knew noe more, he muſt ſweare more, wheather he knew it, or not. A fruitful fancy, ſpurred on by feare, and reſtrained neither by conſcience nor ſhame, furniſhed matter abundantly; and all was receaued, though directly contrary to his former depoſition upon the ſame thing: he frames a formall ſpeech for Mr. Hamden, as an ouerture of the ſeſſions; reduced the jocular diſcourſe of mony to a more ſerious conſideration of raiſing thirty or twenty-fiue thouſand pounds; ſuppoſes the lord Ruſſell to haue bin the writer of the letter ſent by Aron Smith; makes anotter ſpeech for Mr. Hamden, which he calls inuidious, as tending to an intention of referring all to the will of the parliement; but neither fineth upon any thing done, or to be done, nor relates a word ſayd by me, unleſſe it weare in priuate unto himſelf, concerning A. Smith.

Such ſtuffe would not (as I ſuppoſe) haue bin receaued in any court of juſtice in Europe, nor in Weſtminſter-hall, till it was furniſhed with theis judges; but they, reſoluing to receaue all that was againſt me, though euidently falſe, would neither ſuffer me to ſay the tenth part of what I had to alleage in my deffence, nor to explaine or proue that which I propoſed. When the chief juſtice did cut me off, I did as jeſtly as I could, deſire him to proceed ſoftly and fairely: that a wiſe heathen had ſayd, noe delay ought to be eſteemed long, when the life of a man was in queſtion; and that the ſcripture put an euill character upon thoes whoes feet weare ſwift to ſhed blood: but all was in uaine; the points of lawe concerning the different ſorts of treaſons could not be heard; noe councell allowed to argue them; noe point of lawe ſaued, when I ſhewed, that heare was in my caſe neither conſpiracy againſt the life of the king, nor war leuyed; and that if, by long ſeries of far-fetched incohearent ſuppoſitions, any man fancied me to be guilty of treaſon, it muſt be by conſtructions which none but the parliement could make: to proue this I cited the ſtat. 25 Ed. III. and deſired it might be read, with the prouiſoe that noe other court ſhould take cogniſance theareof; but I was ouerborne by the unreaſonable uiolence of the chief juſtice, and denyed the reading of the ſtat. the aſſiſtance of councell to argue the points of lawe, or that any of thoes propoſed by me ſhould be ſaued unto me.

The firſt was, that, by the lawe, noe man could be tryed upon an indictement layd in a county, unleſſe it weare compoſed of freeholders. 2dly, The court hauing declared, that I was tryed upon the ſtat. 21 E. III.

E. III. it ought to be declared upon what branch of that ſtat. 3dly, That, though a conſpiracy to leuy war weare ſworne by one witneſſe, and that a credible one, I ought not to be theareupon indicted by the ſtat. 1 Ed. VI. 12. the 5 of Ed. VI. 11. and the 13 Car. II. 4thly, That conſpiracy to leuy war is not treaſon, by the ſtat. 21 Ed. III. 5thly, That, by the ſame, conſpiring to leuy war, is not an ouert-act of compaſſing the king's death; and, though ouert-acts weare pretended, they are not to be inquired into, without the teſtimony of tow credible witneſſe, by the 1 Ed. VI. 12. and 5 Ed. VI. 11. and I ought not to be obliged to confeſſe ſuch a conſpiracy, if it be not proued. 6thly, Without admitting the fact, I ought to haue councell to argue the points of lawe ariſing upon the euidence; inaſmuch as I may haue cauſe to demurre unto the euidence, and want their aduice theareupon. 7thly, That, ſuppoſing the lord Howard to be a credible witneſſe, he is but one: noe man can be theareupon found guilty, as appeares by Whitebread's caſe; the papers cannot be taken for another witneſſe, ſimilitude of hands is noe euidence, whoeſoeuer writ them; they can haue noe concurrence with what is ſayd, being unknowne unto him, written many yeares ſince, as appeares by the ink and paper, and noeweaye relating unto the matter in queſtion, nor applyed unto any particular time or caſe whatſoeuer. 8thly, That, though the meetings mentioned by the lord Howard weare ſuppoſed to be to conſult to leuy war, ſuch aſſemblyes could not be taken for ouert-acts of conſpiring the death of the king, noe word or ouert-act tending theareunto in giuen in euidence; nothing ariſing from ſuppoſitions, arguments, preſumptions, or conſtructions, can make a man a traitor: the end of the ſtat. 25 Ed. III. was to take awaye ambiguityes, and uariety of opinions, and the deciſions of all ſuch caſes as are theareby referred to the parliement.

If theis points weare not allowed, councell might haue admitted to argue them, or ſaued to be found ſpecially, as was deſired; but all in uaine.

I well knew the diſorder that had bin brought upon the nation in the time of Ri. the II. whenas it is ſayd in the ſtat. 1. H. IV. noe man knew what to ſpeak, or what to doe, for feare of treaſon; that the like was declared, ſtat. 1 Ma. and by the Ed. VI. expreſſe words, and open preaching, to compaſſe the depoſing of the king, ſetting up another title, &c. though proued expreſſely by tow credible witneſſe, weare not made treaſon; and could haue eaſily inferred "a fortiori," that a polemike diſcourſe, left imperfect, neuer examined, neuer ſhewed to any man, writ long ſince, relating in generall unto ſuch caſes as thoes of Tarquin, Caligula, Nero, Vittellius, Peeter the cruell of Caſtile, the degenerated races of Meroueus, or Charles the Great, or the like, could haue noe relation unto any ſtat. of treaſon in England; but the chief juſtice would not ſuffer me to ſpeak.

This explained a miſtery which noe man could before underſtand: they, whoe ſaw I was not brought to a triall with the lord Ruſſell, belieued, that, if the iayles did not furniſh ſomme other euidence againſt me, I ſhould be releaſed without a trialll; but when theis, and many other points of lawe, weare ouer-ruledl without hearing, it plainely appeared, that my triall was deffered untill an underſherife could be made,

made, that would pack a jury with Burton and Graham, and the bench could be filled with ſuch judges, as had noe underſtanding of the lawe, nor regard unto reaſon, juſtice, truth, or common ſence; for words, though ſworne by tow credible witneſſe, could not be brought within the 25 Ed. III. only by any but ſuch as theis acording to the authority of Cook and Hales, and Pinis caſe, nor taken for an ouert-act of compaſſing the king's death. But they could bring the moſt confuſed, improbable, and contradictory relations of one man of noe credite a proofe of a conſpiracy; and as an ouert-act hath * up his credite with papers as ill proued, and containing matters unknowne unto him; and hauing noe cohearence with what he ſayd. Such as they only could ſuffer a witneſſe to gueſſe a man into treaſon, or make the moſt extrauagant gueſſings or ſuppoſition to paſſe for euidence.

Such as they only could fancy, that a few ſcraps of old paper, refuting the doctrines of one of the moſt wicked and fooliſh books that ever was written in the world, tended to the ſubuerſion of our gouernement; and that his approbation of the ſlaughter of Caligula, or the inſurrections againſt Nero, weare ouert-acts of conſpiring the death of the king now raigning in England, the thing was fit to be brought only before ſuch as ſought to deſerue the preferrements unto which they weare unworthily aduanced, by doing ſuch jobs, as would haue bin abhorred by any that had underſtood the principles or ends of gouernements; examined the hiſtory of the world, or ſeene that if it weare in noe caſe lawfull for people to riſe againſt a prince, ther is not a prince in the world, that can haue a lawfull title to the crowne he beares; the moſt part of our kings ſince the William the Norman, weare uſurpers; or, which is worſe, uſurpation conferres a juſt title.

Theis only hauing admitted an indictement, grounded wholly upon ſuppoſitions, innuendoes, and intentionels, could hearken unto the lord Howard, whoe coniectures what I and others meant, whoe writ the letter into Scotland, to whome it was directed; what weare the contents, and effects of it, though he would not ſpeak preciſely to any of thoes points.

Theis only could think him a credible witneſſe, when they had heard him ſweare himſelf periured, and the contents of his depoſition weare, by his owne aſſertions, as in the preſence of God proued to be falſe by nine irreprocheable witneſſe.

Theis only could ſuffer a jury to ſuppoſe, that an evidence can be grounded upon an opinion of a ſimilitude in writing; when they know it is none; that a book was written with an intention to ſtirre up the people, when they hardly ſawe the fiftyeth part of it; and would not ſuffer the tenth of that to be read: that papers, written perhaps twenty or thirty yeares agoe, weare intended in proſecution of deſignes layd within ten months.

Theis only could receaue an indictement, in which the king's title of deffender of the faith was omitted; refuſe a copy, when it was demanded; and the ſtat. 46 Ed. III. produced, whereby it is en-

* It is impoſſible to make any ſenſe of the original in this place: nor is this the only place, which the editor confeſſes he does not underſtand.

acted,

acted, that it ſhould, in all caſes, be allowed unto euery man, leaſt the irreparable errors of it ſhould be diſcouered. Theis only could give credite unto a grand jury, whoe, upon their oaths, preſented a bill, wherein I am ſayd to have traiterouſly, on the 30th of June, and many other dayes, both before and after, to have conſpired with many other falſe traitors, to them unknowne, whereas I was then, and have bin euer ſince, a cloſe priſoner in the tower; and it is moraly impoſſible for any man to know I did conſpire, unleſs they did knowe with whome.

They only could pach up an euidence, conſiſting of tow parts, as the lord Howard's depoſition, and the papers upon the ſimilitude of a hand, when they knew both of them to be voide in lawe, and tack them together; when it was apparent, they neither had, nor could haue, any relation unto each other.

It was a work for them only impudently, and without hearing, to ouer-rule many moſt important points of lawe; by their word to depriue the wholle Engliſh nation of their right of being tryed by freeholders, which is a generall and antient, as any paſt of our lawes; to make diſcourſes at a priuate meeting, imperfectly, uariouſly, and to their owne knowledge falſely reported, by a man of a moſt profligated life, and reputation, to paſſe for a conſpiracy; to oblige a priſoner falſely to aknowledge he had conſpired to leuy war, or, contrary to the judgement of many parliaments, to make a conſpiracy to leuy war to paſſe for treaſon, by the 25th of Ed. III. to make ſuch a conſpiracy, which could not be treaſon in itſelf (though it had bin true) to be treaſon, as imagining the death of the king, though the lawes, and the moſt reuerenced expoſitors of them, declare that is not ſo.

They only could take upon them by uarious, improbable, abſurd, and falſe conſtructions, to make acts noe-wayes comprehended within the words or meaning of the ſtat. 25 Ed. III. to paſſe for treaſon, when they knew themſelues, by the ſame, to be forbidden to make any conſtruction at all; and neither to ſuffer the ſtatute to be read, councell heard, nor the points of law to be ſaued unto me.

None but ſuch as they would haue ſuffered Mr. ſollicitor, by a long painted ſpeech, to haue miſrepeated the euidence on both ſides to miſlead the jury; to haue repreſented the lord Howard's frequent atteſtations of God, that he knew of noe plot, believed that was none, and took that which was ſpoken of, to be an inuention of the prieſts, only as willingneſſe to confeſſe it, and his many periuryes, as a mark of the truth of what he had ſworne, and by ſuch conſtructions as weare abſurd, impoſſible, and falſe, to drive them headlong into a uerdict upon noe euidence, in matter of which they weare utterly incapable of judging, if the law had referred unto them, and whoe weare ſoe compacted, and compoſed, as not to be capable of judging any matter relating unto the meaneſt thiefe.

If any others then theis had bin upon the benſh, I might haue bin heard, when I offer'd to anſweare unto theis fallacyes, and haue unrauelled all his frauds; though ſuch a work could hardly be expected from a man of my education, and in an age, that had much

abated his uigour and memory. If this was denyed, the points of lawe might haue bin left to be found ſpecialy; but I was in all things ouerborne by the fury of the chief juſtice; he did probably feare he ſhould not be taken for Ceſar's freind, if he did let this man goe; he was to deſerue his otherwiſe undeſerued preferrement: to this end, he made a ſpeech of about a hower and a quarter, ſoe confuſed, that I can giue noe other acount of it, then that, as he had bin long obſerued to excell in the lawdable faculty of miſleading juryes, he did exerciſe it with more confidence upon the benſh, then euer he had done at the bar; declared treaſons that had bin hetherto unknowne, and that the jury was obliged to take that to be law, which he judged to be ſoe; miſrepreſented the euidence more then the ſollicitor had done; and as a rule, which they weare to followe, aſſerted, that if one man ſwore, that ſuch a one ſayd, he would with this knife kill the king, and another, that he had of him bought that knife, it was ſufficient evidence to convict any man.

It may as eaſily be gueſſed, what uerdict I expected from an ignorant, ſordide, and packed jury, upon ſuch a direction, as what ſecurity any man in England can have for his life and eſtate, when ſuch ſtuffe can be made to paſſe for law: but I was ſtill ouerborne, and could not be heard, when I endeavoured to bring the chief juſtice to reflect upon his own extrauagancyes.

Before the tryall, I was credibly informed, that his lordſhip had ſoe far humbled himſelf, as to aduiſe with the king's councell of the wayes of compaſſing my death; and that a paper, containing the reſult of that conſultation, had bin ſeene upon Mr. attorneyes table: ſince that time I haue bin told by perſons of unblemiſhed reputation, that, not ſatisfied with the directions giuen in publike, he had bin farther pleaſed, when he retired, upon pretence of taking a glaſſe of ſack, to followe the jury, and giue them more particular inſtructions.

Vpon the firſt part, I was aduiſed to coniure his lordſhip, in the preſence of God, to declare, wheather he had not conſulted as aforeſayd; but the teſtimony his lordſhip gaue upon my tryall of the tenderneſſe of his conſcience, and how far he uallued the religion of his owne, and the king's oath, perſuaded me to be ſilent.

When the jury brought in their verdict, I deſired to examine them "ſeriatim," whether every one of them had found me guilty before it was recorded; and prepared to aſk them particularly, wheather they had found me guilty of compaſſing the king's death? 2. Of levying war againſt the king? 3dly, If they found me guilty of any treaſon, within the ſtatute 25 of Ed. III. 4thly, If they found any treaſon proued againſt me by tow witneſſe? And this I did, that I might not be depriued of the benefite of giuing in my exeptions; as I haue heard the lord Ruſſell's had loſt it, by not hauing moued it before the uerdict was recorded; but the chief juſtice would not heare me.

The irregularity of theis proceedings (that I may not uſe a harder word) obliged me, on the 25th of Nouember, to preſent a petition unto his majeſty, ſhewing,

That

That your petitioner, after a long and cloſe impriſonment, was on of the 17th of this month, brought with a guard of ſoldiers into the pallace-yard, upon a habeas corpus, directed to the lieutenant of the tower, before any indictement had bin found againſt him; that, whileſt he was there detained, a bill was exibited and found; whereupon he was imediately caried to the king's benſh, and there arraigned: in this ſurpriſe, he deſired a coppy of the indictement, leave to make his exeptions, or to put in a ſpeciall plea, ready engroſſed, which was alſoe reiected without reading; and being thretned, that if he did not immediately plead guilty, or not guilty, a judgement of high treaſon, ſhould be entered, he was forced, contrary to law, as he ſuppoſed, to comme to a generall iſſue, in pleading non guilty.

Nouember 21. he was brought to his triall, and the indictement being perplexed, and confuſed, ſoe as neither he, nor any one of his freinds that heard it, could fully comprehend the ſcope of it, he was utterly vnprouided of all the helps that the lawe alloweth unto every man for his deffence; whereupon he did again deſire a coppy, and produced an authentike coppy of the ſtat. 46 Ed. III. whereby it is enacted, that euery man ſhall haue a coppy of any record that toucheth him in any maner, as well that which are againſt the king as any other perſone; but could neither obtaine a coppy of his indictement, nor that ſtatute ſhould be read; the jury by which he was to be tryed, was not, as he is informed, ſumoned by the bailifs of the ſeuerall hundreds in the uſuall and legall manner, but names weare agreed upon by Mr. Graham, Burton, and the underſherife, and direction given to the bailliffe to ſummon them; and being alſoe choſen, the coppy of the pannell was of noe uſe unto him.

When they came to be called, he exepted againſt ſomme for being your majeſtye's ſeruants, which he did hope ſhould not haue bin returned, when he was proſecuted by your majeſtye, with many others for not being freeholders, which exceptions he thinks are good in lawe: others weare lewd and infamous perſons, not befit to be of any jury; but was ouer-ruled by lord chief juſtice; and your petitioner, forced to chalenge them peremptorily, whome he found to be picked, as moſt ſuittable unto their intentions, whoe ſought his ruine, whereby he loſt the benefite allowed by the lawe, of making his exeption, and was forced to admit of mekanike perſons, utterly unable to judge of ſuch matters as were to be brought before them.

The jury being ſworne, noe witneſſe was produced, whoe fixed any thing beyond hearſay upon your petitioner, except the lord Howard, and ſomme that ſwore the papers ſayd to be found in his houſe, and offered as a ſecond witneſſe, were written in a hand by your petitioner; your petitioner produced ten witneſſe, the moſt of them men of eminent quality, the others of unblemiſhed fame, to ſhew the lord Howard's teſtimony was inconſiſtent with what he had, as in the preſence of God, affirmed unto many of them, as he ſwore in the tryall of the lord Ruſſell, under the ſame religious obligation of an oath, as if it had bin legally adminiſtred: your petitioner did endeauour farther to ſhew the incongruity of his teſtimony, he being

being guilty of many crimes, which he did not pretend had any knowledge of; and having no other hope of pardon, then by the drudgery of ſwearing againſt him, deſerued not to be belieued; and that ſimilitude of hands could not be euidence, as was declared by the lord chief juſtice Keeling, and the wholle court in the lady Car's cauſe, ſoe as noe euidence at all remained againſt him: that woe-ſoeuer writ thoes papers, they weare but a ſmall part of a polemike diſcourſe, in anſweare to a book written aboue thirty yeares agoe, upon a generall propoſition, applyed to noe time, or any particular caſe; that it was impoſſible to judge of any part of it, unleſſe the wholle did appeare, which did not; that the ſence of ſuch as weare produced, could not be comprehended, unleſſe the wholle weare read, which was denyed; that the ink and paper ſhewed them to haue bin written many yeares agoe; and the lord Howard knowing nothing of them, they could haue noe concurrence with what your petitioner was ſayd to haue deſigned with him and others.

That the confuſion and errors in writing it, ſhewed that they had neuer ſoe much as been reuiewed, and written in a hand that noe man could read; weare neither fit for the preſſe, nor could be in ſomme yeares, though the writer of them did intend it; which did not appeare; that being only the preſent ſtudy and priuate thoughts of a man, for the exerciſſe of his owne underſtanding in his ſtudy, neuer ſhewed unto any, nor applyed unto a particular caſe, could not fall under the ſtat. 24 Ed. III. which take cogniſſance of noe ſuch matters, being reſerued theareby to the parliament, is declared in the prouiſo, which he did deſire might be read, but was refuſed.

Eight or nine importants points of lawe did heareupon emerge, upon which your petitioner, knowing his own weakeneſſe, did deſire his councell might be heard, or reſerued to be found ſpecially; but was oueruled by the uiolence of the lord chief juſtice; and your petitioner ſoe frequently interrupted, the wholle methode of his deffence was broken, and he not ſuffered to ſay the tenth parts of what he could haue alleaged in his deffence.

The jury was caried into a ueredict that they did not know nor underſtand; for as much as noe man that is oppreſſed in England can haue any reliefe, unleſſe it be from your majeſtye, your petitioner humbly prayes,

The premiſes conſidered, your maieſty will be pleaſed to admit him into your preſence; and if he did not ſhew, that it is for your maieſty's honour and intereſt to preſerue him from the ſayd oppreſſion, he will not complaine, though he be left to be deſtroyed.

But he was pleaſed to referre me to the ſame judges of whome I complained.

Nouember the 26. I was again brought to the bar, and aſked by the chief juſtice, what reaſon I could alleage why judgement ſhould not be pronounced againſt me? My firſt anſweare was, that I had had noe triall, the jury not hauing bin compoſed of freeholders, as the law required. The chief juſtice ſayd, the queſtion had bin decided at the lord Ruſſell's triall. I replyed, the queſtion had then bin concerning a corporation: this was upon an indictement layd in

a county. He ſayd, that was nothing, the deciſion had bin generall. I deſired to know, wheather any precedent could be alleaged, of an Engliſhman tryed by others then by freeholders; and that if this rule weare broken, any man might be tryed by his owne groomes, or a jury made up of porters, carmen, or ſcauingers, and thearupon deſired councell to argue it, which was denyed.

I then deſired the indictement might be againe read, which was granted, but was not ſuffered to peruſe it: this I did alſoe deſire, upon an information, that the bill had bin mended ſince it came into the court; and that, by a ſtatute of Henry the Sixth, every indictement was made uoid, whearein any word or ſillable had bin added or changed; but not being ſuffered tto ſee it, I could not tell what additions or alterations had bin made.

I then pleaded, that by the ſtat. 13 Car. II. it was treaſon to depriue the king of any of his titles; and that, deffender fidei not being in the indictement, it was void; andl deſired councell to argue it: but though the chief juſtice ſeemed to be ſurpriſed at the obiection, he oueruled it, and would not heare councell.

I then moued for a new triall, by reaſon of the many miſcariages that had bin in this, which he was pleaſed to call a triall, though I took it to be none. I then pleaded,, that trialls being inſtituted for the execution of juſtice, through the diſcouery of truth, that ought to be taken for none, whearein abuſes had bin committed to the ouerthrowe of juſtice; and that if I might be patiently heard, I thought I could make it appeare to haue bin ſoe in this my caſe; and went about to ſhew reaſons for what I ſayd: amongſt others I ſhewed, that, on the 7th of Nouember, I had bin brought to Weſtminſter, by a habeas corpus granted the day before, when as yet noe bill was exibited againſt me, and my proſecutors could not know it would be found, unleſſe they had undewly correſponded with the grand jury. 2dly, That a copy of the indictement, the benefite of making my exeptions againſt it, or of putting in a ſpeciall plea, which the lawe doth allowe, and the help of councell to frame them, or either of them, had bin denyed unto me. 3dly, The ſpeciall plea which I preſented, ready engroſſed, to preuent the miſchiefes that would followe, upon my generall anſweare unto a long, confuſed, imperfect, unintelligible indictement, had bin reiected, and theareby forced to comme to a generall iſſue in pleading not guilty.

Heareupon juſtice Withins, being (as ſeemed to me) uery drunk, told me it was falſe; and the chief juſtice ſayd, he had not reiected my plea, but told me the danger of putting it in, becauſe the king's councell would demure unto it; and I could not be ſuffered to plead heareafter: heareupon I replyed, that, hauing liued aboue threeſcore yeares, I had neuer receaued or deſerued ſuch language; for that I had neuer aſſerted any thing that was falſe: but, as to this particular, all that weare preſent could witneſſe my ſayd plea had been reiected, and the condition afterwards impoſed: that I ſhould not be admitted to put in any other plea, if that came to be oueruled, was not according unto lawe; but I being ignorant of it, and denyed the help of a councell, had bin forced to ſubmit, which I ſhould not haue done, if I had bin then as well informed as I am now, that I finde myſelf

circumuented by the fraud of thoes, whoe by their oathes ought to haue preſerued me. 4thly, That, being brought unto a tryall, Nou. 21. I had againe deſired a copy of the indictement, alleaged precedents, produced an authentike coppy of the ſtat. 46 Ed. III. enacting, that all men, in all caſes, as well againſt the king, as others, ſhould have coppyes of any records in which they weare concerned; but could neither obtain it, nor that the ſtatute ſhould be read. 5thly, I am probably informed, and, if time be allowed, doubt not but I ſhould proue it, that the baillifes of the hundreds of Middellſex, had not the liberty of ſummoning the freeholders acording unto lawe; but ſuch as only (wheather freeholders or not) whoes names weare agreed by Graham and Burton, with the underſherife, of whome many weare not ſummoned, when the coppy of the pannell was ſent unto me, and ſomme of them not at all. 6thly, Many of the king's ſeruants now in pay, from whome impartiall juſtice could not be expected, whilſt I was proſecuted at the king's ſuite, weare returned upon the pannell; and many whoe weare not freeholders, and ſomme lewed and infamous perſons, whoe deſerue not to be of any jury; all my lawfull exeptions reiected; the councell prayed to argue the points of lawe ariſing upon the euidence refuſed; whereby I had not only bin obliged to admit of thoes whome I knew to be choſen to deſtroy me, and forced to anſweare before a jury compoſed of mechanike perſons, utterly incapable of judging ſuch matters as came before them, but depriued of all lawfull deffence.

I had many other things to offer, concerning the uncertainety and inualidety of the lord Howard's teſtimony, the utter impoſſibility of bringing papers written many yeares agoe, into a concurrence with a new plot, of which the plotters knew nothing. I deſired that the duke of Monmouth, whoe now appeared, might be aſked, wheather he had euer heard of them, as he muſt haue done, if they had bin deſigned to ſtirre up the people, in order unto councells taken with him. The weakeneſſe of an euidence taken from a ſimilitude of hands; the unreaſonableneſſe of judging of a few ſheets of a treatiſe, without ſeeing the wholle; the impoſſibility of bringing the matters layd unto my charge, within the ſtat. of 25 Ed. III. though they haue bin proued; the iniuſtice of breaking the methode ſet for my deffence; the fraud of the ſollicitour's repreſentations; the irregularity and miſtakes of his lordſhip's direction; the direct incapacity layd upon that court to judge of conſtructiue treaſons; the manyfold errors in conſtruing this to be treaſon, ther being nothing to lead them unto it, but ſeauen or eight ſuppoſitions, of which euery one was falſe; and reſolution taken not to heare any point of lawe argued, leaſt they ſhould be theareby led unto truth; but nothing could be heard.

I had alſoe reaſon to moue for an areſt of judgement, that though I had granted what had bin ſayd by lord Howard to be true, conſulting to leuy war can amount only unto words, and words only are not to be treaſon, acording to Cook and Hales, and Fines caſe, 4 Car. pr. 1.

Conſulting to leuy war is noe ouert act of compaſſing the king's death, as is ſayd expreſſely by Cook and Hales; aſſembling to conſult,

ſult, can amount unto no more than to conſult, and, legally conſidered, can be noe more then conſulting, it being impoſſible in law or nature to conſult without aſſembling, that is, comming together, ſoe as aſſembling to conſult is noe more than bare conſulting, that is, bare words.

That conſulting, and ſending into Scotland, if it had bin true, weare noe more then to conſult with thoes that weare to comme; that all this being teſtified only by the lord Howard, had bin inualide, though their credite had bin good, as appeares by Blake his law, and the popiſh lords now in the tower, who are thought to hold their liues only upon the weakeneſſe of one witneſſe, though there weare many concurrent circumſtances. Whitebread's tryall was put of for the ſame reaſons: and, beſide that hath bin already ſayd of the papers, I ought to haue added the abſurdity of pretending, that ſuch as had bin written many yeares agoe, not perfected, nor to be perfected in a long time, perhaps neuer, and neuer ſhewne unto any man liuing, ſhould be intended to ſtirre up the people; whereupon a new tryall, an arreſt of judgement, ſhould be giuen; but I could not be heard: and though I did atteſt God and Man, that I had not bin ſufficiently heard, the chief juſtice with his uſuall precipitation pronounced judgement of death againſt me as a traitor.

Somme that weare preſent, affirm, that he aknowledged the late pretended plot did not affect me; but I confeſſe I did not obſerue that, and think myſelf obliged unto him in nothing, but that he ſeemed to lay uery much weight upon the Old Cauſe, and my engagement in it, with which I am ſoe well ſatisfyed as contentedly to dye for it.

When I heard the judgement, to the beſt of my remembrance I ſayd theis words.

Why then, oh Lord! ſanctify, I beſeech thee, theis my ſufferings unto me; ſanctify me through my ſufferings; ſanctify me through thy truth; thy word is truth; impute not my blood unto this nation; impute it not unto the great city through which I ſhall be lead to the place of death; let not my ſoul cry, though it lye under the altar; make noe inquiſition for it; or, if innocent blood muſt be expiated, let thy uangeance fall only upon the head of thoes, whoe knowingly and maliciouſly perſecute me for righteouſneſſe ſake.

The chief juſtice then ſpeaking, as if I had bin a diſtempered man, I held out my arme, and deſired any that weare preſent to feele my pulſe, and wheather any man could be more free from emotion; and I doe profeſſe, that ſo far as I doe know, and did then feele myſelf, I was neuer in a more quiet temper; glory and thanks be unto God for euer, whoe had filled me with comforts, and ſoe uphold me, that hauing, as I hope, through Chriſt, uanquiſhed ſin, he doth preſerue me from the feares of death.

The chief juſtice, hauing performed this exploit, is ſayd to haue bragged unto the king, that noe man in his place had euer rendered unto any king of England ſuch ſeruices as he had done, in making it to paſſe for lawe, that any man might be now tryed by a jury not conſiſting of freeholders; and that one witneſſe, with any concurrent circumſtance (as that of the buying the knife), was ſufficient to conuict him.

In

In this he ſeemes to haue ſpoken very modeſtly; for he might truly haue ſayd, that he had oueruled eight or ten uery importants points of lawe, and decided them without hearing; wheareby the law itſelf was made a ſnare, which noe man could auoide, nor haue any ſecurity for his life or fortune, if one wild wretch could be found to ſweare againſt him, ſuch circumſtances as he required: neuertheleſſe wee all know, that the like had bin done in former times: in the dayes of Richard II. the nation was brought into ſuch a condition, through the peruerſion of the lawe, that noe man knew what to ſay or doe, for feare of treaſon, as is expreſſed in the ſtat. 1 Hen. IV. and weare theareby driuen upon the moſt uiolent remedyes: God only knowes what will be the iſſue of the like practice in theis our dayes: perhaps he will in mercy ſpeedily uiſit his afflicted people. I dye in the faith that he will doe it, though I know not the time or wayes; and am ſoe much the more confident he will doe it, that his cauſe, and his people, is more concerned now then it was in former time: the luſt of one man and his fauyrites was then only to be ſet up in the exerciſe of an arbitrary power ouer perſons and ſtates; but now the tyranny ouer conſciences is principally affected, and the ciuill powers are ſtretched unto this exorbitant height, for the eſtabliſhement of popery. I belieue that the people of God in England haue, in theis late yeares, generally growne faint: ſomme, through feare, haue deflected from the integrity of their principles; ſomme haue been too deeply plunged themſelues in worldly cares, and, ſoe as they might enioy their trades and wealth, haue leſſe regarded the treaſure that is layd up in heauen: but I think there are uery many whoe haue kept their garments unſpotted; and hope that God will deliuer them, and the nation for their ſakes. God will not ſuffer this land, wheare the goſpell hath of late floriſhed more then any part of the world, to become as laue of the world; he will not ſuffer it to be made a land of grauen images: he will ſtirre up witneſſes of the truth, and, in his owne time, ſpirite his people to ſtand up for his cauſe, and deliuer them. I liued in this belief, and am now about to dye in it: I knowe my Redeemer liues; and, as he hath in a great meſure upheld me in the day of my calamity, hope that he will ſtill uphold me by his ſpirite in this laſt moment, and, giuing me grace to glorify him in my death, receaue me into the glory prepared for thoes that feare him, when my body ſhall be diſſolued. Amen.

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DISCOURSES

CONCERNING

GOVERNMENT.

CHAP. I.

SECTION I.

INTRODUCTION.

HAVING lately ſeen a book, intituled "Patriarcha," written by Sir Robert Filmer, concerning the univerſal and undiſtinguiſhed right of all kings, I thought a time of leiſure might be well employed in examining his doctrine, and the queſtions ariſing from it; which ſeem ſo far to concern all mankind, that, beſides the influence upon our future life, they may be ſaid to comprehend all that in this world deſerves to be cared for. If he ſay true, there is but one government in the world that can have any thing of juſtice in it: and thoſe who have hitherto been eſteemed the beſt and wiſeſt of men, for having conſtituted commonwealths or kingdoms; and taken much pains ſo to proportion the powers of ſeveral magiſtracies, that they might all concur in procuring the public good; or ſo to divide the powers between the magiſtrates and people, that a well-regulated harmony might be preſerved in the whole; were the moſt unjuſt and fooliſh of all men. They were not builders, but overthrowers of governments: their buſineſs was to ſet up ariſtocratical, democratical, or mixed governments, in oppoſition to that monarchy, which, by the immutable laws of God and nature, is impoſed upon mankind; or preſumptuouſly to put ſhackles upon the monarch, who, by the ſame laws, is to be abſolute and uncontrouled: they were rebellious and diſobedient ſons, who roſe

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up againſt their father; and not only refuſed to hearken to his voice, but made him bend to their will. In their opinion, ſuch only deſerved to be called good men, who endeavoured to be good to mankind, or to that country to which they were more particularly related: and inaſmuch as that good conſiſts in a felicity of eſtate, and perfection of perſon, they highly valued ſuch as had endeavoured to make men better, wiſer, and happier. This they underſtood to be the end for which men entered into ſocieties: and tho' Cicero ſays, that commonwealths were inſtituted for the obtaining of juſtice, he contradicts them not, but comprehends all in that word; becauſe 'tis juſt, that whoſoever receives a power, ſhould employ it wholly for the accompliſhment of the ends for which it was given. This work could be performed only by ſuch as excelled in virtue: but leſt they ſhould deflect from it, no government was thought to be well conſtituted, unleſs the laws prevailed above the commands of men; and they were accounted as the worſt of beaſts, who did not prefer ſuch a condition before a ſubjection to the fluctuating and irregular will of a man.

Potentiora legum quam hominum imperia. Liv. l. 2. c. 1.

If we believe Sir Robert, all this is miſtaken. Nothing of this kind was ever left to the choice of men. They are not to inquire what conduces to their own good: God and nature have put us into a way from which we are not to ſwerve: we are not to live to him, nor to ourſelves, but to the maſter that he hath ſet over us. One government is eſtabliſhed over all, and no limits can be ſet to the power of the perſon that manages it. This is the prerogative, or, as another author of the ſame ſtamp calls it, "The royal charter" granted to kings by God. They all have an equal right to it: women and children are patriarchs; and the next in blood, without any regard to age, ſex, or other qualities of the mind or body, are fathers of as many nations as fall under their power. We are not to examine, whether he or ſhe be young or old, virtuous or vicious, ſober-minded or ſtark-mad; the right and power is the ſame in all. Whether virtue be exalted or ſuppreſſed; whether he that bears the ſword be a praiſe to thoſe that do well, and a terror to thoſe that do evil, or a praiſe to thoſe that do evil, and a terror to ſuch as do well, it concerns us not; for the king muſt not loſe his right, nor have his power diminiſhed, on any account. I have been ſometimes apt to wonder, how things of this nature could enter into the head of any man: or, if no wickedneſs or folly be ſo great, but ſome may fall into it, I could not well conceive why they ſhould publiſh it to the world. But theſe thoughts ceaſed when I conſidered, that a people from all ages in love with liberty, and deſirous to maintain their own privileges, could never be brought to reſign them; unleſs they were made to believe, that in conſcience they ought to do it: which could not be, unleſs they were alſo perſuaded to believe, that there was a law ſet to all mankind, which none might tranſgreſs, and which put the examination of all thoſe matters out of their power. This is our author's work. By this it will appear whoſe throne he ſeeks to advance, and whoſe ſervant he is, whilſt he pretends to ſerve the king. And that it may be evident he hath made uſe of means

means ſuitable to the ends propoſed for the ſervice of his great maſter, I hope to ſhew that he hath not uſed one argument that is not falſe, nor cited one author whom he hath not perverted and abuſed. Whilſt my work is ſo to lay open theſe ſnares, that the moſt ſimple may not be taken in them, I ſhall not examine how Sir Robert came to think himſelf a man fit to undertake ſo great a work, as to deſtroy the principles, which from the beginning ſeem to have been common to all mankind; but only weighing the poſitions and arguments that he alledgeth, will, if there be either truth or ſtrength in them, confeſs the diſcovery comes from him that gave us leaſt reaſon to expect it; and that, in ſpite of the antients, there is not in the world a piece of wood, out of which a Mercury may not be made. SECT. 2.

SECT. II.

The common notions of liberty are not from ſchool divines, but from nature.

IN the firſt lines of his book he ſeems to denounce war againſt mankind, endeavouring to overthrow the principle of liberty in which God created us, and which includes the chief advantages of the life we enjoy, as well as the greateſt helps towards the felicity, that is the end of our hopes in the other. To this end he abſurdly imputes to the ſchool divines that which was taken up by them as a common notion, written in the heart of every man, denied by none, but ſuch as were degenerated into beaſts, from whence they might prove ſuch points as of themſelves were leſs evident. Thus did Euclid lay down certain axioms, which none could deny that did not renounce common ſenſe, from whence he drew the proofs of ſuch propoſitions as were leſs obvious to the underſtanding; and they may with as much reaſon be accuſed of paganiſm, who ſay that the whole is greater than a part, that two halfs make the whole, or that a ſtrait line is the ſhorteſt way from point to point, as to ſay, that they who in politics lay ſuch foundations, as have been taken up by ſchoolmen and others as undeniable truths, do therefore follow them, or have any regard to their authority. Tho' the ſchoolmen were corrupt, they were neither ſtupid nor unlearned: they could not but ſee that which all men ſaw, nor lay more approved foundations, than, that man is naturally free; that he cannot juſtly be deprived of that liberty without cauſe; and that he doth not reſign it, or any part of it, unleſs it be in conſideration of a greater good, which he propoſes to himſelf. But if he doth unjuſtly impute the invention of this to ſchool divines, he in ſome meaſure repairs his fault in ſaying, "This hath been foſtered by all ſucceeding papiſts for good divinity: "the divines of the reformed churches have entertained it, and the "common people every-where tenderly embrace it." That is to ſay, all chriſtian divines, whether reformed or unreformed, do approve it, and the people every-where magnify it, as the height of human feli-

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felicity. But Filmer, and ſuch as are like to him, being neither reformed nor unreformed chriſtians, nor of the people, can have no title to chriſtianity; and, inaſmuch as they ſet themſelves againſt that which is the height of human felicity, they declare themſelves enemies to all that are concerned in it, that is, to all mankind.

But, ſays he, "they do not remember, that the deſire of liberty "was the firſt cauſe of the fall of man." And I deſire it may not be forgotten, that the liberty aſſerted is not a licentiouſneſs of doing what is pleaſing to every one againſt the command of God; but an exemption from all human laws, to which they have not given their aſſent. If he would make us believe there was any thing of this in Adam's ſin, he ought to have proved, that the law which he tranſgreſſed was impoſed upon him by man, and, conſequently, that there was a man to impoſe it; for it will eaſily appear, that neither the reformed or unreformed divines, nor the people following them, do place the felicity of man in an exemption from the laws of God, but in a moſt perfect conformity to them. Our Saviour taught us "not to fear "ſuch as could kill the body, but him that could kill, and caſt into "hell:" and the apoſtle tells us, that "we ſhould obey God rather "than man." It hath been ever hereupon obſerved, that they who moſt preciſely adhere to the laws of God, are leaſt ſolicitous concerning the commands of men, unleſs they are well grounded; and thoſe who moſt delight in the glorious liberty of the ſons of God, do not only ſubject themſelves to him, but are moſt regular obſervers of the juſt ordinances of man, made by the conſent of ſuch as are concerned, according to the will of God.

The error of not obſerving this may perhaps deſerve to be pardoned in a man that had read no books, as proceeding from ignorance; if ſuch as are groſly ignorant can be excuſed, when they take upon them to write of ſuch matters as require the higheſt knowledge: But in Sir Robert it is prevarication and fraud to impute to ſchoolmen and puritans that which in his firſt page he acknowledged to be the doctrine of all reformed and unreformed chriſtian churches, and that he knows to have been the principle in which the Grecians, Italians, Spaniards, Gauls, Germans, and Britons, and all other generous nations ever lived, before the name of Chriſt was known in the world; inſomuch that the baſe effeminate Aſiatics and Africans, for being careleſs of their liberty, or unable to govern themſelves, were by Ariſtotle and other wiſe men called "ſlaves by nature," and looked upon as little different from beaſts.

This which hath its root in common ſenſe, not being to be overthrown by reaſon, he ſpares his pains of ſeeking any; but thinks it enough to render his doctrine plauſible to his own party, by joining the Jeſuits to Geneva, and coupling Buchanan to Doleman as both maintaining the ſame doctrine; tho' he might as well have joined the puritans with the Turks, becauſe they all think that one and one makes two. But whoever marks the proceedings of Filmer and his maſters, as well as his diſciples, will rather believe, that they have learned from Rome and the Jeſuits to hate Geneva, than that Geneva and Rome can agree in any thing farther than as they are obliged to ſubmit to the evidence of truth; or that Geneva and Rome

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can concur in any deſign or intereſt that is not common to mankind. SECT. 2.

" Theſe men allowed to the people a liberty of depoſing their princes. " This is a deſperate opinion. Bellarmine and Calvin look aſquint at " it." But why is this a deſperate opinion? If diſagreements happen between king and people, why is it a more deſperate opinion to think the king ſhould be ſubject to the cenſures of the people, than the people ſubject to the will of the king? Did the people make the king, or the king make the people? Is the king for the people, or the people for the king? Did God create the Hebrews, that Saul might reign over them? or did they, from an opinion of procuring their own good, aſk a king that might judge them, and fight their battles? If God's interpoſition, which ſhall be hereafter explained, do alter the caſe, did the Romans make Romulus, Numa, Tullus Hoſtilius, and Tarquinius Priſcus kings? or did they make or beget the Romans? If they were made kings by the Romans, 'tis certain they that made them ſought their own good in ſo doing: and if they were made by and for the city and people, I deſire to know, if it was not better, that when their ſucceſſors departed from the end of their inſtitution, by endeavouring to deſtroy it, or all that was good in it, they ſhould be cenſured and ejected, than be permitted to ruin that people for whoſe good they were created? Was it more juſt, that Caligula or Nero ſhould be ſuffered to deſtroy the poor remains of the Roman nobility and people, with the nations ſubject to that empire, than that the race of ſuch monſters ſhould be extinguiſhed, and a great part of mankind, eſpecially the beſt, againſt whom they were moſt fierce, preſerved by their deaths?

I preſume our author thought theſe queſtions might be eaſily decided; and that no more was required to ſhew the fore-mentioned aſſertions were not at all deſperate, than to examine the grounds of them: but he ſeeks to divert us from this inquiry, by propoſing the dreadful conſequences of ſubjecting kings to the cenſures of their people; whereas no conſequence can deſtroy any truth; and the worſt of this is, that if it were received, ſome princes might be reſtrained from doing evil; or puniſhed, if they will not be reſtrained. We are therefore only to conſider, whether the people, ſenate, or any magiſtracy made by and for the people, have, or can have, ſuch a right; for if they have, whatſoever the conſequences may be, it muſt ſtand: and as the one tends to the good of mankind in reſtraining the luſts of wicked kings, the other expoſes them without remedy to the fury of the moſt ſavage of all beaſts. I am not aſhamed in this to concur with Buchanan, Calvin, or Bellarmine; and without envy leave Filmer, and his aſſociates, the glory of maintaining the contrary.

But notwithſtanding our author's averſion to truth, he confeſſes, " That Hayward, Blackwood, Barclay, and others, who have bravely " vindicated the right of kings in this point, do with one conſent admit " as an unqueſtionable truth, and aſſent unto the natural liberty and " equality of mankind, not ſo much as once queſtioning or oppoſing it." And indeed I believe, that tho' ſince the ſin of our firſt parents the earth hath brought forth briars and brambles, and the nature of man hath

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been fruitful only in vice and wickedneſs; neither the authors he mentions, nor any others, have had impudence enough to deny ſuch evident truth as ſeems to be planted in the hearts of all men; or to publiſh doctrines ſo contrary to common ſenſe, virtue, and humanity, till theſe times. The production of Laud, Manwaring, Sibthorp, Hobbs, Filmer, and Heylin, ſeems to have been reſerved as an additional curſe to complete the ſhame and miſery of our age and country. Thoſe who had wit and learning, with ſomething of ingenuity and modeſty, tho' they believed, that nations might poſſibly make an ill uſe of their power, and were very deſirous to maintain the cauſe of kings, as far as they could put any good colour upon it; yet never denied, that ſome had ſuffered juſtly (which could not be, if there were no power of judging them); nor ever aſſerted any thing that might arm them with an irreſiſtible power of doing miſchief, animate them to perſiſt in the moſt flagitious courſes, with aſſurance of perpetual impunity, or engage nations in an inevitable neceſſity of ſuffering all manner of outrages. They knew, that the actions of thoſe princes, who were not altogether deteſtable, might be defended by particular reaſons drawn from them, or the laws of their country; and would neither undertake the defence of ſuch as were abominable, nor bring princes, to whom they wiſhed well, into the odious extremity of juſtifying themſelves by arguments that favoured Caligula and Nero, as well as themſelves, and that muſt be taken for a confeſſion, that they were as bad as could be imagined; ſince nothing could be ſaid for them that might not as well be applied to the worſt that had been, or could be. But Filmer, Heylin, and their aſſociates, ſcorning to be reſtrained by ſuch conſiderations, boldly lay the ax to the root of the tree, and rightly enough affirm, "That the whole fabric of that which they call popular ſedition would "fall to the ground, if the principle of natural liberty were removed." And, on the other hand, it muſt be acknowledged, that the whole fabric of tyranny will be much weakened, if we prove, That nations have a right to make their own laws, conſtitute their own magiſtrates; and that ſuch as are ſo conſtituted owe an account of their actions to thoſe by whom, and for whom, they are appointed.

SECT. III.

Implicit faith belongs to fools; and truth is comprehended by examining principles.

WHilſt Filmer's buſineſs is to overthrow liberty and truth, he, in his paſſage, modeſtly profeſſeth "not to meddle with myſteries "of ſtate," or "arcana imperii." He renounces thoſe inquiries thro' an implicit faith, which never entered into the head of any but fools, and ſuch as, through a careleſſneſs of the point in queſtion, acted as if they were ſo. This is the foundation of the papal power; and it can ſtand no longer than thoſe that compoſe the Roman church can be perſuaded to ſubmit their conſciences to the word of the prieſts, and

and eſteem themſelves diſcharged from the neceſſity of ſearching the ſcriptures in order to know whether the things that are told them are true or falſe. This may ſhew whether our author or thoſe of Geneva do beſt agree with the Roman doctrine: but his inſtance is yet more ſottiſh than his profeſſion. "An implicit faith," ſays he, "is given "to the meaneſt artificer." I wonder by whom! Who will wear a ſhoe that hurts him, becauſe the ſhoemaker tells him it is well made? or who will live in a houſe that yields no defence againſt the extremities of weather, becauſe the maſon or carpenter aſſures him it is a very good houſe? Such as have reaſon, underſtanding, or common ſenſe, will, and ought to make uſe of it in thoſe things that concern themſelves, and their poſterity, and ſuſpect the words of ſuch as are intereſted in deceiving or perſuading them not to ſee with their own eyes, that they may be more eaſily deceived. This rule obliges us ſo far to ſearch into matters of ſtate, as to examine the original principles of government in general, and of our own in particular. We cannot diſtinguiſh truth from falſhood, right from wrong, or know what obedience we owe to the magiſtrate, or what we may juſtly expect from him, unleſs we know what he is, why he is, and by whom he is made to be what he is. Theſe perhaps may be called "myſteries of ſtate," and ſome would perſuade us they are to be eſteemed "arcana;" but whoſoever confeſſes himſelf to be ignorant of them, muſt acknowledge that he is uncapable of giving any judgment upon things relating to the ſuperſtructure; and in ſo doing evidently ſhews to others, that they ought not at all to hearken to what he ſays. Sect. 3.

His argument to prove this is more admirable. "If an implicit "faith," ſays he, "is given to the meaneſt artificer in his craft, much "more to a prince in the profound ſecrets of government." But where is the conſequence? If I truſt to the judgment of an artificer, or one of a more ingenuous profeſſion, it is not becauſe he is of it, but becauſe I am perſuaded he does well underſtand it, and that he will be faithful to me in things relating to his art. I do not ſend for Lower or Micklethwait when I am ſick, nor aſk the advice of Mainard or Jones in a ſuit of law, becauſe the firſt are phyſicians, and the other lawyers; but becauſe I think them wiſe, learned, diligent, and faithful, there being a multitude of others who go under the ſame name, whoſe opinion I would never aſk. Therefore if any concluſion can be drawn from thence in favour of princes, it muſt be of ſuch as have all the qualities of ability and integrity, that ſhould create this confidence in me; or it muſt be proved, that all princes, inaſmuch as they are princes, have ſuch qualities. No general concluſion can be drawn from the firſt caſe, becauſe it muſt depend upon the circumſtances, which ought to be particularly proved: and if the other be aſſerted, I deſire to know whether Caligula, Claudius, Nero, Vitellius, Domitian, Commodus, Heliogabalus, and others not unlike to them, had thoſe admirable endowments, upon which an implicit faith ought to have been grounded; how they came by them; and whether we have any promiſe from God, that all princes ſhould for ever excel in thoſe virtues, or whether we by experience find that they do ſo. If they are or have been wanting in any, the whole falls to the ground; for no man enjoys as a prince that which is not common to all princes: and if every prince have not wiſ-

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dom to underſtand theſe profound ſecrets, integrity to direct him, according to what he knows to be good, and a ſufficient meaſure of induſtry and valour to protect me, he is not the artificer, to whom the implicit faith is due. His eyes are as ſubject to dazle as my own. But it is a ſhame to inſiſt on ſuch a point as this. We ſee princes of all ſorts; they are born as other men: the vileſt flatterer dares not deny, that they are wiſe or fooliſh, good or bad, valiant or cowardly, like other men: and the crown doth neither beſtow extraordinary qualities, ripen ſuch as are found in princes ſooner than in the meaneſt, nor preſerve them from the decays of age, ſickneſs, or other accidents, to which all men are ſubject: and if the greateſt king in the world fall into them, he is as uncapable of that myſterious knowledge, and his judgment is as little to be relied on, as that of the pooreſt peaſant.

This matter is not mended by ſending us to ſeek thoſe virtues in the miniſters, which are wanting in the prince. The ill effects of Rehoboam's folly could not be corrected by the wiſdom of Solomon's counſellors: he rejected them; and ſuch as are like to him will always do the ſame thing. Nero adviſed with none but muſicians, players, chariot-drivers, or the abominable miniſters of his pleaſures and cruelties. Arcadius's ſenate was chiefly compoſed of buffoons and cooks, influenced by an old raſcally eunuch. And it is an eternal truth, that a weak or wicked prince can never have a wiſe council, nor receive any benefit by one that is impoſed upon him, unleſs they have a power of acting without him; which would render the government in effect ariſtocratical, and would probably diſpleaſe our author as much as if it were ſo in name alſo. Good and wiſe counſellors do not grow up like muſhrooms: great judgment is required in chuſing and preparing them. If a weak or vicious prince ſhould be ſo happy to find them choſen to his hand, they would avail him nothing. There will ever be variety of opinions amongſt them; and he that is of a perverted judgment will always chuſe the worſt of thoſe that are propoſed, and favour the worſt men, as moſt like to himſelf. Therefore, if this implicit faith be grounded upon a ſuppoſition of profound wiſdom in the prince, the foundation is overthrown, and it cannot ſtand; for to repoſe confidence in the judgment and integrity of one that has none, is the moſt brutiſh of all follies. So that if a prince may have or want the qualities, upon which my faith in him can be rationally grounded, I cannot yield the obedience he requires, unleſs I ſearch into the ſecrets relating to his perſon and commands, which he forbids. I cannot know how to obey, unleſs I know in what, and to whom: nor in what, unleſs I know what ought to be commanded: nor what ought to be commanded, unleſs I underſtand the original right of the commander, which is the great arcanum. Our author, finding himſelf involved in many difficulties, propoſes an expedient as ridiculous as any thing that had gone before, being nothing more than an abſurd begging the main queſtion, and determining it without any ſhadow of proof. He injoins an active or paſſive obedience, before he ſhews what ſhould oblige or perſuade us to it. This indeed were a compendious way of obviating that which he calls popular ſedition, and of expoſing all nations, that fall under the power of tyrants, to be deſtroyed utterly by them. Nero or Domitian would have deſired no more, than that thoſe who would

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not execute their wicked commands, ſhould patiently have ſuffered their throats to be cut by ſuch as were leſs ſcrupulous: and the world that had ſuffered thoſe monſters for ſome years, muſt have continued under their fury, till all that was good and virtuous had been aboliſhed. But in thoſe ages and parts of the world, where there hath been any thing of virtue and goodneſs, we may obſerve a third ſort of men, who would neither do villainies, nor ſuffer more than the laws did permit, or the conſideration of the public peace did require. Whilſt tyrants with their ſlaves, and the inſtruments of their cruelties, were accounted the dregs of mankind, and made the objects of deteſtation and ſcorn, theſe men, who delivered their countries from ſuch plagues were thought to have ſomething of divine in them, and have been famous above all the reſt of mankind to this day. Of this ſort were Pelopidas, Epaminondas, Thraſibulus, Harmodius, Ariſtogiton, Philopemen, Lucius Brutus, Publius Valerius, Marcus Brutus, C. Caſſius, M. Cato, with a multitude of others amongſt the antient heathens. Such as were inſtruments of the like deliverances amongſt the Hebrews, as Moſes, Othniel, Ehud, Barak, Gideon, Samſon, Jephthah, Samuel, David, Jehu, the Maccabees and others, have from the ſcriptures a certain teſtimony of the righteouſneſs of their proceedings, when they neither would act what was evil, nor ſuffer more than was reaſonable. But leſt we ſhould learn by their examples, and the praiſes given to them, our author confines the ſubject's choice to acting or ſuffering, that is, doing what is commanded, or lying down to have his throat cut, or to ſee his family and country made deſolate. This he calls giving to Cæſar that which is Cæſar's; whereas he ought to have conſidered, that the queſtion is not whether that which is Cæſar's ſhould be rendered to him, for that is to be done to all men; but who is Cæſar, and what doth of right belong to him, which he no way indicates to us: ſo that the queſtion remains intire, as if he had never mentioned it, unleſs we do in a compendious way take his word for the whole.

SECT. 4.

SECT. IV.

The rights of particular nations cannot ſubſiſt, if general principles contrary to them are received as true.

NOtwithſtanding this, our author, if we will believe him, "doth "not queſtion or quarrel at the rights or liberties of this or any "other nation." He only denies they can have any ſuch, in ſubjecting them neceſſarily and univerſally to the will of one man; and ſays not a word that is not applicable to every nation in the world, as well as to our own. But as the bitterneſs of his malice ſeems to be moſt eſpecially directed againſt England, I am inclined to believe he hurts other countries only by accident, as the famous * French lady intended only to poiſon her father, huſband, brother, and ſome more of her neareſt relations; but rather than they ſhould eſcape, deſtroyed many other perſons of quality, who at ſeveral times dined with them: and

* The Marchioneſs of Brinvilliers.

CHAP. I. if that ought to excuſe her, I am content he alſo ſhould paſs uncenſured, tho' his crimes are incomparably greater than thoſe for which ſhe was condemned, or than any can be which are not of a public extent.

SECT. V.

To depend upon the will of a man is ſlavery.

THIS, as he thinks, is farther ſweetened, by aſſerting, that he doth not inquire what the rights of a people are, but from whence; not conſidering, that whilſt he denies they can proceed from the laws of natural liberty, or any other root than the grace and bounty of the prince, he declares they can have none at all. For as liberty ſolely conſiſts in an independency upon the will of another, and by the name of ſlave we underſtand a man, who can neither diſpoſe of his perſon nor goods, but enjoys all at the will of his maſter; there is no ſuch thing in nature as a ſlave, if thoſe men or nations are not ſlaves, who have no other title to what they enjoy, than the grace of the prince, which he may revoke whenſoever he pleaſeth. But there is more than ordinary extravagance in his aſſertion, that "the greateſt liberty in the world is for a people to live under "a monarch," when his whole book is to prove, that this monarch hath his right from God and nature, is endowed with an unlimited power of doing what he pleaſeth, and can be reſtrained by no law. If it be liberty to live under ſuch a government, I deſire to know what is ſlavery. It has been hitherto believed in the world, that the Aſſyrians, Medes, Arabs, Egyptians, Turks, and others like them, lived in ſlavery, becauſe their princes were maſters of their lives and goods: whereas the Grecians, Italians, Gauls, Germans, Spaniards, and Carthaginians, as long as they had any ſtrength, virtue, or courage amongſt them, were eſteemed free nations, becauſe they abhorred ſuch a ſubjection. They were, and would be governed only by laws of their own making: "Potentiora erant legum quam homi- "num imperia." Even their princes had the authority or credit of perſuading, rather than the power of commanding. But all this was miſtaken: theſe men were ſlaves, and the Aſiaticks were freemen. By the ſame rule the Venetians, Switzers, Griſons, and Hollanders, are not free nations: but liberty in its perfection is enjoyed in France and Turky. The intention of our anceſtors was, without doubt, to eſtabliſh this amongſt us by magna charta, and other preceding or ſubſequent laws; but they ought to have added one clauſe, that the contents of them ſhould be in force only ſo long as it ſhould pleaſe the king. King Alfred, upon whoſe laws magna charta was grounded, when he ſaid the Engliſh nation was as free as the internal thoughts of a man, did only mean, that it ſhould be ſo as long as it pleaſed their maſter. This it ſeems was the end of our law, and we who are born under it, and are deſcended from ſuch as have ſo valiantly defended their rights againſt the encroachments of kings, have followed after vain ſhadows, and without the expence of ſweat, trea-

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treaſure, or blood, might have ſecured their beloved liberty, by caſting all into the king's hands. SECT. 5.

We owe the diſcovery of theſe ſecrets to our author, who, after having ſo gravely declared them, thinks no offence ought to be taken at the freedom he aſſumes of examining things relating to the liberty of mankind, becauſe he hath the right which is common to all: but he ought to have conſidered, that in aſſerting that right to himſelf, he allows it to all mankind. And as the temporal good of all men conſiſts in the preſervation of it, he declares himſelf to be a mortal enemy to thoſe who endeavour to deſtroy it. If he were alive, this would deſerve to be anſwered with ſtones rather than words. He that oppugns the public liberty, overthrows his own, and is guilty of the moſt brutiſh of all follies, whilſt he arrogates to himſelf that which he denies to all men.

I cannot but commend his modeſty and care "not to detract from "the worth of learned men." But it ſeems they were all ſubject to error, except himſelf, who is rendered infallible thro' pride, ignorance, and impudence. But if Hooker and Ariſtotle were wrong in their fundamentals concerning natural liberty, how could they be in the right when they built upon it? Or if they did miſtake, how can they deſerve to be cited? or rather, why is ſuch care taken to pervert their ſenſe? It ſeems our author is by their errors brought to the knowledge of the truth. "Men have heard of a dwarf ſtanding upon the ſhoulders "of a giant, who ſaw farther than the giant:" but now that the dwarf ſtanding on the ground ſees that which the giant did overlook, we muſt learn from him. If there be ſenſe in this, the giant muſt be blind, or have ſuch eyes only as are of no uſe to him. He minded only the things that were far from him. Theſe great and learned men miſtook the very principle and foundation of all their doctrine. If we will believe our author, this misfortune befel them becauſe they too much truſted to the ſchoolmen. He names Ariſtotle; and, I preſume, intends to comprehend Plato, Plutarch, Thucydides, Xenophon, Polybius, and all the antient Grecians, Italians, and others, who aſſerted the natural freedom of mankind, only in imitation of the ſchoolmen, to advance the power of the pope; and would have compaſſed their deſign, if Filmer, and his aſſociates, had not oppoſed them. Theſe men had taught us to make the unnatural diſtinction between Royaliſt and Patriot, and kept us from ſeeing, "That the relation between king and people is ſo "great, that their well-being is reciprocal." If this be true, how came Tarquin to think it good for him to continue king at Rome, when the people would turn him out? or the people to think it good for them to turn him out, when he deſired to continue in? Why did the Syracuſians deſtroy the tyranny of Dionyſius, which he was not willing to leave, till he was pulled out by the heels? How could Nero think of burning Rome? Or why did Caligula wiſh the people had but one neck, that he might ſtrike it off at one blow, if their welfare was thus reciprocal? 'Tis not enough to ſay, Theſe were wicked or mad men; for other princes may be ſo alſo; and there may be the ſame reaſon of differing from them. For if the propoſition be not univerſally true, 'tis not to be received as true in relation to any, till it be particularly proved; and then 'tis not to be imputed to the quality of prince, but to the perſonal virtue of the man.

I do

CHAP. I. I do not find any great matters in the paſſages taken out of Bellarmine, which, our author ſays, comprehend the ſtrength of all that ever he had heard, read, or ſeen produced for the natural liberty of the ſubject: but he not mentioning where they are to be found, I do not think myſelf obliged to examine all his works, to ſee whether they are rightly cited or not: however, there is certainly nothing new in them: we ſee the ſame, as to the ſubſtance, in thoſe who wrote many ages before him, as well as in many that have lived ſince his time, who neither minded him, nor what he had written. I dare not take upon me to give an account of his works, having read few of them: but, as he ſeems to have laid the foundation of his diſcourſes in ſuch common notions as were aſſented to by all mankind, thoſe who follow the ſame method have no more regard to jeſuitiſm and popery, tho' he was a jeſuit and cardinal, than they who agree with Faber, and other jeſuits, in the principles of geometry, which no ſober man did ever deny.

SECT. VI.

God leaves to man the choice of forms in government; and thoſe who conſtitute one form, may abrogate it.

BUT Sir Robert "deſires to make obſervations on Bellarmine's "words, before he examines or refutes them." And indeed it were not poſſible to make ſuch ſtuff of his Doctrine as he does, if he had examined or did underſtand it. Firſt, he very wittily concludes, "That "if, by the law of God, the power be immediately in the people, God "is the author of a democracy." And why not, as well as of a tyranny? Is there any thing in it repugnant to the being of God? Is there more reaſon to impute to God Caligula's monarchy, than the democracy of Athens? Or is it more for the glory of God, to aſſert his preſence with the Ottoman or French monarchs, than with the popular governments of the Switzers and Griſons? Is pride, malice, luxury, and violence ſo ſuitable to his being, that they who exerciſe them are to be reputed his miniſters? And is modeſty, humility, equality, and juſtice ſo contrary to his nature, that they who live in them ſhould be thought his enemies? Is there any abſurdity in ſaying, that ſince God in goodneſs and mercy to mankind hath, with an equal Hand, given to all the benefit of liberty, with ſome meaſure of underſtanding how to employ it, 'tis lawful for any nation, as occaſion ſhall require, to give the exerciſe of that power to one or more men, under certain limitations and conditions; or to retain it to themſelves, if they think it good for them? If this may be done, we are at an end of all controverſies concerning one form of government eſtabliſhed by God, to which all mankind muſt ſubmit; and we may ſafely conclude, that having given to all men, in ſome degree, a capacity of judging what is good for themſelves, he hath granted to all likewiſe a liberty of inventing ſuch forms as pleaſe them beſt, without favouring one more than another.

His

His ſecond obſervation is grounded upon a falſity in matter of fact. Bellarmine does not ſay, that democracy is an ordinance of God more than any other government; nor that the people have no power to make uſe of their right; but that they do, that is to ſay ordinarily, tranſmit the exerciſe of it to one or more. And it is certain they do ſometimes, eſpecially in ſmall cities, retain it in themſelves. But whether that were obſerved or not by Bellarmine, makes nothing to our cauſe, which we defend, and not him. SECT. 6.

The next point is ſubtile; and he thinks thereby to have brought Bellarmine, and ſuch as agree with his principle, to a nonplus. He doubts who ſhall judge of the lawful cauſe of changing the government; and ſays, It is a "peſtilent concluſion to place that power in "the multitude." But why ſhould this be eſteemed peſtilent? or to whom? If the allowance of ſuch a power to the ſenate was peſtilent to Nero, it was beneficial to mankind; and the denial of it, which would have given to Nero an opportunity of continuing in his villainies, would have been peſtilent to the beſt men, whom he endeavoured to deſtroy, and to all others that received benefit from them. But this queſtion depends upon another: for if governments are conſtituted for the pleaſure, greatneſs, or profit of one man, he muſt not be interrupted; for the oppoſing of his will, is to overthrow the inſtitution. On the other ſide, if the good of the governed be ſought, care muſt be taken that the end be accompliſhed, tho' it be with the prejudice of the governor. If the power be originally in the multitude, and one or more men, to whom the exerciſe of it, or a part of it, was commited, had no more than their brethren, till it was conferred on him or them, it cannot be believed, that rational creatures would advance one or a few of their equals above themſelves, unleſs in conſideration of their own good; and then I find no inconvenience in leaving to them a right of judging, whether this be duly performed or not. We ſay in general, "He that inſtitutes, may alſo abrogate;" moſt eſpecially when the inſtitution is not only by, but for himſelf. If the multitude therefore do inſtitute, the multitude may abrogate; and they themſelves, or thoſe who ſucceed in the ſame right, can only be fit judges of the performance of the ends of the inſtitution. Our author may perhaps ſay, The public peace may be hereby diſturbed: but he ought to know, There can be no peace, where there is no juſtice; nor any juſtice, if the government inſtituted for the good of a nation be turned to its ruin. But in plain Engliſh, the inconvenience with which ſuch as he endeavour to affright us, is no more than that he or they, to whom the power is given, may be reſtrained or chaſtiſed, if they betray their truſt; which I preſume will diſpleaſe none, but ſuch as would rather ſubject Rome, with the beſt part of the world depending upon it, to the will of Caligula or Nero, than Caligula or Nero to the judgment of the ſenate and people; that is, rather to expoſe many great and brave nations to be deſtroyed by the rage of a ſavage beaſt, than ſubject that beaſt to the judgment of all, or the choiceſt men of them, who can have no intereſt to pervert them, or other reaſon to be ſevere to him, than to prevent the miſchiefs he would commit, and to ſave the people from ruin.

Cujus eſt inſtituere, ejus eſt abrogare.

CHAP. I. In the next place he recites an argument of Bellarmine, That " it is " evident in Scripture God hath ordained powers; but God hath given " them to no particular perſon, becauſe by nature all men are equal; " therefore he hath given power to the people or multitude." I leave him to untie that knot, if he can; but, as it is uſual with impoſtors, he goes about by ſurmiſes to elude the force of his argument, pretending that in ſome other place he had contradicted himſelf, and acknowledged that every man was prince of his poſterity; " becauſe, that if " many men had been created together, they ought all to have been " princes of their poſterity." But it is not neceſſary to argue upon paſſages cited from authors, when he that cites them may be juſtly ſuſpected of fraud, and neither indicates the place nor treatiſe, leſt it ſhould be detected; moſt eſpecially when we are no-way concerned in the authors credit. I take Bellarmine's firſt argument to be ſtrong; and if he in ſome place did contradict it, the hurt is only to himſelf: but in this particular I ſhould not think he did it, tho' I were ſure our author had faithfully repeated his words; for in allowing every man to be prince of his poſterity, he only ſays, every man ſhould be chief in his own family, and have a power over his children, which no man denies: but he does not underſtand Latin, who thinks that the word " princeps" doth in any degree ſignify an abſolute power, or a right of tranſmitting it to his heirs and ſucceſſors, upon which the doctrine of our author wholly depends. On the contrary, The ſame law that gave to my father a power over me, gives me the like over my children; and if I had a thouſand brothers, each of them would have the ſame over their children. Bellarmine's firſt argument therefore being no-way enervated by the alledged paſſage, I may juſtly inſiſt upon it, and add, That God hath not only declared in Scripture, but written on the heart of every man, that as it is better to be cloathed, than to go naked; to live in a houſe, than to lie in the fields; to be defended by the united force of a multitude, than to place the hopes of his ſecurity ſolely in his own ſtrength; and to prefer the benefits of ſociety, before a ſavage and barbarous ſolitude; he alſo taught them to frame ſuch ſocieties, and to eſtabliſh ſuch laws as were neceſſary to preſerve them. And we may as reaſonably affirm, that mankind is for ever obliged to uſe no other cloaths than leather breeches, like Adam; to live in hollow trees, and eat acorns, or to ſeek after the model of his houſe for a habitation, and to uſe no arms except ſuch as were known to the patriarchs, as to think all nations for ever obliged to be governed as they governed their families. This I take to be the genuine ſenſe of the ſcripture, and the moſt reſpectful way of interpreting the places relating to our purpoſe. It is hard to imagine, that God, who hath left all things to our choice, that are not evil in themſelves, ſhould tie us up in this; and utterly incredible that he ſhould impoſe upon us a neceſſity of following his will, without declaring it to us. Inſtead of conſtituting a government over his people, conſiſting of many parts, which we take to be a model fit to be imitated by others, he might have declared in a word, that the eldeſt man of the eldeſt line ſhould be king; and that his will ought to be their law. This had been more ſuitable to the goodneſs

neſs and mercy of God, than to leave us in a dark labyrinth, full of precipices; or rather, to make the government given to his own people, a falſe light to lead us to deſtruction. This could not be avoided, if there were ſuch a thing as our author calls a "lord paramount over his childrens children to all generations." We ſee nothing in ſcripture, of precept or example, that is not utterly abhorrent to this chimera. The only ſort of kings mentioned there with approbation, is ſuch a one "as may not raiſe his heart above his brethren." If God had conſtituted a lord paramount with an abſolute power, and multitudes of nations were to labour and fight for his greatneſs and pleaſure, this were to raiſe his heart to a height, that would make him forget he was a man. Such as are verſed in ſcripture, not only know, that it neither agrees with the letter or ſpirit of that book; but that it is unreaſonable in itſelf, unleſs he were of a ſpecies different from the reſt of mankind. His exaltation would not agree with God's indulgence to his creatures, tho' he were the better for it; much leſs when probably he would be made more unhappy, and worſe, by the pride, luxury, and other vices, that always attend the higheſt fortunes. It is no leſs incredible, that God, who diſpoſes all things in wiſdom and goodneſs, and appoints a due place for all, ſhould, without diſtinction, ordain ſuch a power, to every one ſucceeding in ſuch a line, as cannot be executed; the wiſe would refuſe, and fools cannot take upon them the burden of it, without ruin to themſelves, and ſuch as are under them: or expoſe mankind to a multitude of other abſurdities and miſchiefs; ſubjecting the aged to be governed by children; the wiſe, to depend on the will of fools; the ſtrong and valiant, to expect defence from the weak or cowardly; and all in general to receive juſtice from him, who neither knows nor cares for it.

SECT. 7.

Deut. xvii.

SECT. VII.

Abraham and the patriarchs were not kings.

IF any man ſay, that we are not to ſeek into the depth of God's counſels; I anſwer, that if he had, for reaſons known only to himſelf, affixed ſuch a right to any one line, he would have ſet a mark upon thoſe who come of it, that nations might know to whom they owe ſubjection; or given ſome teſtimony of his preſence with Filmer and Heylin, if he had ſent them to reveal ſo great a myſtery. Till that be done, we may ſafely look upon them as the worſt of men, and teachers only of lyes and follies. This perſuades me little, to examine what would have been, if God had at once created many men, or the concluſions that can be drawn from Adam's having been alone. For nothing can be more evident, than that if many had been created, they had been all equal, unleſs God had given a preference to one. All their ſons had inherited the ſame right after their death; and no dream was ever more empty, than his whimſey of Adam's kingdom, or that of the enſuing patriarchs.

To

CHAP. I. To ſay the truth, it is hard to ſpeak ſeriouſly of Abraham's kingdom, or to think any man to be in earneſt who mentions it. He was a ſtranger, and a pilgrim in the land where he lived, and pretended to no authority beyond his own family, which conſiſted only of a wife and ſlaves. He lived with Lot as with his equal, and would have no conteſt with him, becauſe they were brethren. His wife and ſervants could neither make up, nor be any part of a kingdom, inaſmuch as the deſpotical government, both in practice and principle, differs from the regal. If his kingdom was to be grounded on the paternal right, it vaniſhed away of itſelf; he had no child: Eliezer of Damaſcus, for want of a better, was to be his heir: Lot, tho' his nephew, was excluded: he durſt not own his own wife: he had not one foot of land, till he bought a field for a burying place: his three hundred and eighteen men were ſervants (bought according to the cuſtom of thoſe days), or their children; and the war he made with them, was like to Gideon's enterprize; which ſhews only that God can ſave by a few as well as by many, but makes nothing to our author's purpoſe. For if they had been as many in number as the army of Semiramis, they could have no relation to the regal, much leſs to the paternal power; for a father doth not buy, but beget children.

Notwithſtanding this, our author beſtows the proud title of lord paramount upon him, and tranſmits it to Iſaac, who was indeed a king like his father, great, admirable, and glorious in wiſdom and holineſs, but utterly void of all worldly ſplendor or power. This ſpiritual kingdom was inherited by Jacob, whoſe title to it was not founded on prerogative of birth, but election, and peculiar grace; but he never enjoyed any other worldly inheritance, than the field and cave which Abraham had bought for a burying place, and the goods he had gained in Laban's ſervice.

The example of Judah's ſentence upon Thamar is yet farther from the purpoſe, if it be poſſible; for he was then a member of a private family, the fourth ſon of a father then living; neither in poſſeſſion, nor under the promiſe of the privileges of primogeniture, tho' Reuben, Simeon, and Levi, fell from it by their ſins. Whatſoever therefore the right was, which belonged to the head of the family, it muſt have been in Jacob; but as he profeſſed himſelf a keeper of ſheep, as his fathers had been, the exerciſe of that employment was ſo far from regal, that it deſerves no explication. If that act of Judah is to be imputed to a royal power, I have as much as I aſk: he, tho' living with his father, and elder brothers, when he came to be of age to have children, had the ſame power over ſuch, as were of, or came into his family, as his father had over him; for none can go beyond the power of life and death: the ſame, in the utmoſt extent, cannot at the ſame time equally belong to many. If it be divided equally, it is no more than that univerſal liberty which God hath given to mankind; and every man is a king, till he diveſt himſelf of his right, in conſideration of ſomething that he thinks better for him.

SECT.

SECT. VIII.

Nimrod was the firſt king, during the life of Cuſh, Cham, Shem, and Noah.

THE creation is exactly deſcribed in the ſcripture; but we know ſo little of what paſſed between the finiſhing of it and the flood, that our author may ſay what he pleaſes, and I may leave him to ſeek his proofs where he can find them. In the mean time I utterly deny, that any power did remain in the heads of families after the flood, that does in the leaſt degree reſemble the regal in principle or practice. If in this I am miſtaken, ſuch power muſt have been in Noah, and tranſmitted to one of his ſons. The ſcripture ſays only, that he built an altar, ſacrificed to the Lord, was a huſbandman, planted a vineyard, and performed ſuch offices as bear nothing of the image of a king, for the ſpace of three hundred and fifty years. We have reaſon to believe, that his ſons after his death continued in the ſame manner of life, and the equality properly belonging to brethren. It is not eaſy to determine, whether Shem or Japhet were the elder; but Ham is declared to be the younger; and Noah's bleſſing to Shem ſeems to be purely prophetical and ſpiritual, of what ſhould be accompliſhed in his poſterity; with which Japhet ſhould be perſuaded to join. If it had been worldly, the whole earth muſt have been brought under him, and have for ever continued in his race, which never was accompliſhed, otherwiſe than in the ſpiritual kingdom of Chriſt, which relates not to our author's lord paramount. Gen. ix.

As to earthly kings, the firſt of them was Nimrod, the ſixth ſon of Cuſh the ſon of Ham, Noah's younger and accurſed ſon. This kingdom was ſet up about a hundred and thirty years after the flood, whilſt Cuſh, Ham, Shem, and Noah, were yet living; whereas if there were any thing of truth in our author's propoſition, all mankind muſt have continued under the government of Noah whilſt he lived; and that power muſt have been tranſmitted to Shem, who lived about three hundred and ſeventy years after the erection of Nimrod's kingdom; and muſt have come to Japhet, if he was the elder; but could never come to Cham, who is declared to have been certainly the younger, and condemned to be a ſervant to them both; much leſs to the younger ſon of his ſon, whilſt he, and thoſe to whom he and his poſterity were to be ſubjects, were ſtill living.

This rule therefore, which the partizans of abſolute monarchy fancy to be univerſal and perpetual, falling out in its firſt beginning, directly contrary to what they aſſert; and being never known to have been recovered; were enough to ſilence them, if they had any thing of modeſty, or regard to truth. But the matter may be carried farther: for the ſcripture doth not only teſtify, that this kingdom of Nimrod was an uſurpation, void of all right, proceeding

CHAP. I.

from the moſt violent and miſchievous vices, but exerciſed with the utmoſt fury, that the moſt wicked man of the accurſed race, who ſet himſelf up againſt God, and all that is good, could be capable of. The progreſs of this kingdom was ſuitable to its inſtitution: that which was begun in wickedneſs, was carried on with madneſs, and produced confuſion. The mighty hunter, whom the beſt interpreters call a cruel tyrant, receding from the ſimplicity and innocence of the patriarchs, who were huſbandmen or ſhepherds, arrogating to himſelf a dominion over Shem, to whom he and his fathers were to be ſervants, did thereby ſo peculiarly become the heir of God's curſe, that whatſoever hath been ſaid to this day, of the power that did moſt directly ſet itſelf againſt God and his people, hath related literally to the Babel that he built, or figuratively to that which reſembles it in pride, cruelty, injuſtice, and madneſs.

But the ſhameleſs rage of ſome of theſe writers is ſuch, that they rather chuſe to aſcribe the beginning of their idol to this odious violence, than to own it from the conſent of a willing people; as if they thought, that as all action muſt be ſuitable to its principle, ſo that which is unjuſt in its practice, ought to ſcorn to be derived from that which is not deteſtable in its principle. It is hardly worth our pains to examine whether the nations, that went from Babel after the confuſion of languages, were more or leſs than ſeventy-two, for they ſeem not to have gone according to families, but every one to have aſſociated himſelf to thoſe that underſtood his ſpeech; and the chief of the fathers, as Noah and his ſons, were not there, or were ſubject to Nimrod; each of which points doth deſtroy, even in the root, all pretence to paternal government. Beſides, it is evident in ſcripture, that Noah lived three hundred and fifty years after the flood; Shem five hundred; Abraham was born about two hundred and ninety years after the flood, and lived one hundred ſeventy-five years: he was therefore born under the government of Noah, and died under that of Shem: he could not therefore exerciſe a regal power whilſt he lived, for that was in Shem: ſo that in leaving his country, and ſetting up a family for himſelf that never acknowledged any ſuperior, and never pretending to reign over any other, he fully ſhewed he thought himſelf free, and to owe ſubjection to none; and, being as far from arrogating to himſelf any power upon the title of paternity, as from acknowledging it in any other, left every one to the ſame liberty.

The punctual enumeration of the years, that the fathers of the holy ſeed lived, gives us ground of making a more than probable conjecture, that they of the collateral lines were, in number of days, not unequal to them; and if that be true, Ham and Cuſh were alive when Nimrod ſet himſelf up to be king. He muſt therefore have uſurped this power over his father, grandfather and great grandfather; or, which is more probable, he turned into violence and oppreſſion the power given to him by a multitude; which, like a flock without a ſhepherd, not knowing whom to obey, ſet him up to be their chief. I leave to our author the liberty of chuſing which of theſe two doth beſt ſuit with his paternal monarchy; but as far as I can underſtand, the firſt is directly againſt it, as well

as

as againſt the laws of God and man; the other, being from the conſent of the multitude, cannot be extended farther than they would have it, nor turned to their prejudice, without the moſt abominable ingratitude and treachery, from whence no right can be derived, nor any juſtifiable example taken, SECT. 8.

Nevertheleſs, if our author reſolve that Abraham was alſo a king, he muſt preſume that Shem did emancipate him, before he went to ſeek his fortune. This was not a kingly poſture; but I will not contradict him, if I may know over whom he reigned. Paternal monarchy is exerciſed by the father of the family over his deſcendents, or ſuch as had been under the dominion of him, whoſe heir he is. But Abraham had neither of theſe: thoſe of his neareſt kindred continued in Meſopotamia, as appears by what is ſaid of Bethuel and Laban. He had only Lot with him, over whom he pretended no right: he had no children till he was an hundred years old (that is to ſay, he was a king without a ſubject); and then he had but one. I have heard, that * "ſovereigns do impatiently bear competitors;" but now I find ſubjection alſo doth admit of none. Abraham's kingdom was too great when he had two children; and, to diſburden it, Iſhmael muſt be expelled ſoon after the birth of Iſaac. He obſerved the ſame method after the death of Sarah: he had children by Keturah; but he gave them gifts, and ſent them away, leaving Iſaac like a ſtoical king reigning in and over himſelf, without any other ſubject till the birth of Jacob and Eſau. But his kingdom was not to be of a larger extent than that of his father: the two twins could not agree: Jacob was ſent away by his mother; he reigned over Eſau only, and it is not eaſy to determine who was the heir of his worldly kingdom; for tho' Jacob had the birthright, we do not find he had any other goods, than what he had gotten in Laban's ſervice. If our author ſay true, the right of primogeniture, with the dominion perpetually annexed by the laws of God and nature, muſt go to the eldeſt: Iſaac therefore, tho' he had not been deceived, could not have conferred it upon the younger; for man cannot overthrow what God and nature have inſtituted. Jacob, in the court language, had been a double rebel, in beguiling his father, and ſupplanting his brother. The bleſſing of being lord over his brethren could not have taken place. Or if Iſaac had power, and his act was good, the prerogative of the elder is not rooted in the law of God or nature, but is a matter of conveniency only, which may be changed at the will of the father, whether he know what he does or not. But if this paternal right to dominion were of any value, or dominion over men were a thing to be deſired, why did Abraham, Iſaac, and Jacob, content themſelves with ſuch a narrow territory, when, after the death of their anceſtors, they ought, according to that rule, to have been lords of the world? All authors conclude, that Shem was the eldeſt by birth, or preferred by the appointment of God, ſo as the right muſt have been in him, and from him tranſmitted to Abraham and Iſaac; but if they were ſo poſſeſſed with the contemplation of a heavenly kingdom, as not to care for the greateſt on earth; it is ſtrange, that Eſau, whoſe modeſty is not much commended, ſhould ſo far forget his intereſt, as neither to lay

* Omniſque poteſtas impatiens conſortis erit. Lucan. l. 1. v. 92.

claim

CHAP. I. claim to the empire of the world, nor diſpute with his brother the poſſeſſion of the field and cave bought by Abraham, but rather to fight for a dwelling on mount Seir, that was neither poſſeſſed by, nor promiſed to his fathers. If he was fallen from his right, Jacob might have claimed it: but God was his inheritance; and, being aſſured of his bleſſing, he contented himſelf with what he could gain by his induſtry, in a way that was not at all ſuitable to the pomp and majeſty of a king. Which way ſoever therefore the buſineſs be turned, whether, according to Iſaac's bleſſing, Eſau ſhould ſerve Jacob, or our author's opinion, Jacob muſt ſerve Eſau; neither of the two was effected in their perſons: and the kingdom of two being divided into two, each of them remained lord of himſelf.

SECT. IX.

The power of a father belongs only to a father.

THIS leads us to an eaſy determination of the queſtion, which our author thinks inſoluble: "If Adam was lord of his chil-"dren, he doth not ſee how any can be free from the ſubjection of his "parents." For as no good man will ever deſire to be free from the reſpect that is due to his father, who did beget and educate him, no wiſe man will ever think the like to be due to his brother or nephew, that did neither. If Eſau and Jacob were equally free; if Noah, as our author affirms, divided Europe, Aſia, and Africa, amongſt his three ſons, tho' he cannot prove it; and if ſeventy-two nations under ſo many heads or kings went from Babylon to people the earth, about a hundred and thirty years after the flood; I know not why, according to the ſame rule and proportion, it may not be ſafely concluded, that in four thouſand years kings are ſo multiplied, as to be in number equal to the men that are in the world; that is to ſay, they are, according to the laws of God and nature, all free, and independent upon each other, as Shem, Ham, and Japhet were. And therefore, tho' Adam and Noah had reigned alone, when there were no men in the world, except ſuch as iſſued from them, that is no reaſon why any other ſhould reign over thoſe that he hath not begotten. As the right of Noah was divided amongſt the children he left, and when he was dead, no one of them depended on the other, becauſe no one of them was father of the other; and the right of a father can only belong to him that is ſo; the like muſt for ever attend every other father in the world. This paternal power muſt neceſſarily accrue to every father: he is a king by the ſame right as the ſons of Noah; and how numerous ſoever families may be upon the increaſe of mankind, they are all free, till they agree to recede from their own right, and join together in or under one government, according to ſuch laws as beſt pleaſe themſelves.

SECT.

SECT. X.

Such as enter into ſociety, muſt in ſome degree diminiſh their liberty.

REASON leads them to this: no one man or family is able to provide that which is requiſite for their convenience or ſecurity, whilſt every one has an equal right to every thing, and none acknowledges a ſuperior to determine the controverſies, that upon ſuch occaſions muſt continually ariſe, and will probably be ſo many and great, that mankind cannot bear them. Therefore tho' I do not believe, that Bellarmine ſaid, a commonwealth could not exerciſe its power; for he could not be ignorant, that Rome and Athens did exerciſe theirs, and that all the regular kingdoms in the world are commonwealths; yet there is nothing of abſurdity in ſaying, that man cannot continue in the perpetual and entire fruition of the liberty that God hath given him. The liberty of one is thwarted by that of another; and whilſt they are all equal, none will yield to any, otherwiſe than by a general conſent. This is the ground of all juſt governments; for violence or fraud can create no right; and the ſame conſent gives the form to them all, how much ſoever they differ from each other. Some ſmall numbers of men, living within the precincts of one city, have, as it were, caſt into a common ſtock, the right which they had of governing themſelves and children, and by common conſent joining in one body, exerciſed ſuch power over every ſingle perſon as ſeemed beneficial to the whole; and this men call perfect "democracy." Others choſe rather to be governed by a ſelect number of ſuch as moſt excelled in wiſdom and virtue; and this, according to the ſignification of the word, was called "ariſtocracy:" or when one man excelled all others, the government was put into his hands under the name of "monarchy." But the wiſeſt, beſt, and far the greateſt part of mankind, rejecting theſe ſimple ſpecies, did form governments mixed or compoſed of the three, as ſhall be proved hereafter, which commonly received their reſpective denomination from the part that prevailed, and did deſerve praiſe or blame, as they were well or ill proportioned.

It were a folly hereupon to ſay, that the liberty for which we contend, is of no uſe to us, ſince we cannot endure the ſolitude, barbarity, weakneſs, want, miſery, and dangers, that accompany it whilſt we live alone, nor can enter into a ſociety without reſigning it; for the choice of that ſociety, and the liberty of framing it according to our own wills, for our own good, is all we ſeek. This remains to us whilſt we form governments, that we ourſelves are judges how far it is good for us to recede from our natural liberty; which is of ſo great importance, that from thence only we can know whether we are freemen or ſlaves; and the difference between the beſt government and the worſt, doth wholly depend upon a right or wrong exerciſe of that power. If men are naturally free, ſuch as

CHAP. I. have wiſdom and underſtanding will always frame good governments: but if they are born under the neceſſity of a perpetual ſlavery, no wiſdom can be of uſe to them; but all muſt for ever depend on the will of their lords, how cruel, mad, proud, or wicked, ſoever they be.

SECT. XI.

No man comes to command many, unleſs by conſent or by force.

BUT becauſe I cannot believe God hath created man in ſuch a ſtate of miſery and ſlavery as I juſt now mentioned; by diſcovering the vanity of our author's whimſical patriarchical kingdom, I am led to a certain concluſion, that every father of a family is free and exempt from the domination of any other, as the ſeventy-two that went from Babel were. It is hard to comprehend how one man can come to be maſter of many, equal to himſelf in right, unleſs it be by conſent, or by force. If by conſent, we are at an end of our controverſies: governments, and the magiſtrates that execute them, are created by man. They who give a being to them, cannot but have a right of regulating, limiting, and directing them as beſt pleaſeth themſelves; and all our author's aſſertions concerning the abſolute power of one man, fall to the ground: if by force, we are to examine how it can be poſſible or juſtifiable. This ſubduing by force we call conqueſt; but as he that forceth muſt be ſtronger than thoſe that are forced, to talk of one man who in ſtrength exceeds many millions of men, is to go beyond the extravagance of fables and romances. This wound is not cured by ſaying, that he firſt conquers one, and then more, and with their help others; for as to matter of fact, the firſt news we hear of Nimrod is, that he reigned over a great multitude, and built vaſt cities; and we know of no kingdom in the world, that did not begin with a greater number than any one man could poſſibly ſubdue. If they who choſe one to be their head, did under his conduct ſubdue others, they were fellow-conquerors with him; and nothing can be more brutiſh, than to think, that by their virtue and valour they had purchaſed perpetual ſlavery to themſelves, and their poſterity. But if it were poſſible, it could not be juſtifiable; and whilſt our diſpute is concerning right, that which ought not to be is no more to be received, than if it could not be. No right can come by conqueſt, unleſs there were a right of making that conqueſt, which, by reaſon of the equality that our author confeſſes to have been amongſt the heads of families, and as I have proved goes into infinity, can never be on the aggreſſor's ſide. No man can juſtly impoſe any thing upon thoſe who owe him nothing. Our author therefore, who "aſcribes the enlargement of Nimrod's kingdom to uſur-"pation and tyranny," might as well have acknowledged the ſame in the beginning, as he ſays all other authors have done. However, he ought not to have imputed to Sir Walter Raleigh an approbation of his right,

right, as lord or king over his family; for he could never think him to be a lord by the right of a father, who by that rule muſt have lived and died a ſlave to his fathers that over-lived him. Whoſoever therefore like Nimrod grounds his pretenſions of right upon uſurpation and tyranny, declares himſelf to be, like Nimrod, an uſurper and a tyrant, that is, an enemy to God and man, and to have no right at all. That which was unjuſt in its beginning, can of itſelf never change its nature. "Tempus in ſe," ſaith Grotius, "nullam habet "vim effectricem." He that perſiſts in doing injuſtice, aggravates it, and takes upon himſelf all the guilt of his predeceſſors. But if there be a king in the world, that claims a right by conqueſt, and would juſtify it, he might do well to tell whom he conquered, when, with what aſſiſtance, and upon what reaſon he undertook the war; for he can ground no title upon the obſcurity of an unſearchable antiquity; and if he does it not, he ought to be looked upon as an uſurping Nimrod.

SECT. 12.

Lib. 2. c. 4. § 1. Duratio temporis naturam rei non immutat. Lib. 1. c. 3. § 11. n. 2.

SECT. XII.

The pretended paternal right is diviſible or indiviſible: if diviſible, it is extinguiſhed; if indiviſible, univerſal.

THIS paternal right to regality, if there be any thing in it, is diviſible or indiviſible; if indiviſible, as Adam hath but one heir, one man is rightly lord of the whole world, and neither Nimrod nor any of his ſucceſſors could ever have been kings, nor the ſeventy-two that went from Babylon: Noah ſurvived him near two hundred years: Shem continued one hundred and fifty years longer. The dominion muſt have been in him, and by him tranſmitted to his poſterity for ever. Thoſe that call themſelves kings in all other nations, ſet themſelves up againſt the law of God and nature: this is the man we are to ſeek out, that we may yield obedience to him. I know not where to find him; but he muſt be of the race of Abraham. Shem was preferred before his brethren: the inheritance that could not be divided muſt come to him, and from him to Iſaac, who was the firſt of his deſcendents that outlived him. It is pity that Jacob did not know this, and that the lord of all the earth, through ignorance of his title, ſhould be forced to keep one of his ſubjects ſheep for wages; and ſtrange, that he who had wit enough to ſupplant his brother, did ſo little underſtand his own bargain, as not to know, that he had bought the perpetual empire of the world. If in conſcience he could not take ſuch a price for a diſh of pottage, it muſt remain in Eſau: however, our lord paramount muſt come from Iſaac. If the deed of ſale made by Eſau be good, we muſt ſeek him amongſt the Jews: if he could not eaſily diveſt himſelf of his right, it muſt remain amongſt his deſcendants, who are Turks. We need not ſcruple the reception of either, ſince the late Scots act tells us, "that kings derive their royal power from God alone; and no differ-"ence of religion, &c. can divert the right of ſucceſſion." But I know not

CHAP. I.

not what we ſhall do, if we cannot find this man; for "de non appa-
"rentibus & non exiſtentibus eadem eſt ratio." The right muſt fall if there be none to inherit: if we do not know who he is that hath the right, we do not know who is near to him: all mankind muſt inherit the right, to which every one hath an equal title; and that which is dominion, if in one, when it is equally divided among all men, is that univerſal liberty which I aſſert. Wherefore I leave it to the choice of ſuch as have inherited our author's opinions, to produce this Jew or Turk that ought to be lord of the whole earth, or to prove a better title in ſome other perſon, and to perſuade all the princes and nations of the world to ſubmit: if this be not done, it muſt be confeſſed this paternal right is a mere whimſical fiction, and that no man by birth hath a right above another, or can have any, unleſs by the conceſſion of thoſe who are concerned.

If this right to an univerſal empire be diviſible, Noah did actually divide it among his three ſons: ſeventy-and-two abſolute monarchs did at once ariſe out of the multitude that had aſſembled at Babel: Noah, nor his ſons, nor any of the holy ſeed, nor probably any elder than Nimrod having been there, many other monarchs muſt neceſſarily have ariſen from them. Abraham, as our author ſays, was a king: Lot muſt have been ſo alſo; for they were equals: his ſons Ammon and Moab had no dependence upon the deſcendents of Abraham. Iſmael and Eſau ſet up for themſelves, and great nations came of them: Abraham's ſons by Keturah did ſo alſo; that is to ſay, every one, as ſoon as he came to be of age to provide for himſelf, did ſo, without retaining any dependence upon the ſtock from whence he came: thoſe of that ſtock, or the head of it, pretended to no right over thoſe who went from them. Nay, nearneſs in blood was ſo little regarded, that tho' Lot was Abraham's brother's ſon, Eliezer his ſervant had been his heir, if he had died childleſs. The like continued amongſt Jacob's ſons; no juriſdiction was given to one above the reſt: an equal diviſion of land was made amongſt them: their judges and magiſtrates were of ſeveral tribes and families, without any other preference of one before another, than what did ariſe from the advantages God had given to any particular perſon. This I take to be a proof of the utmoſt extent and certainty, that the equality amongſt mankind was then perfect: he therefore that will deny it to be ſo now, ought to prove, that neither the prophets, patriarchs, or any other men, did ever underſtand or regard the law delivered by God and nature to mankind; or that having been common and free at the firſt, and ſo continued for many hundreds of years after the flood, it was afterwards aboliſhed, and a new one introduced. He that aſſerts this muſt prove it; but till it does appear to us, when, where, how, and by whom this was done, we may ſafely believe there is no ſuch thing; and that no man is or can be a lord amongſt us, till we make him ſo; and that by nature we are all brethren.

Our author, by endeavouring farther to illuſtrate the patriarchical power, deſtroys it, and cannot deny to any man the right which he acknowledges to have been in Iſmael and Eſau. But if every man hath a right of ſetting up for himſelf with his family, or before he has

has any, he cannot but have a right of joining with others if he pleaſes. As his joining or not joining with others, and the choice of thoſe others, depends upon his own will, he cannot but have a right of judging upon what conditions it is good for him to enter into ſuch a ſociety, as muſt neceſſarily hinder him from exerciſing the right which he has originally in himſelf. But as it cannot be imagined, that men ſhould generally put ſuch fetters upon themſelves, unleſs it were in expectation of a greater good that was thereby to accrue to them, no more can be required to prove, that they do voluntarily enter into theſe ſocieties, inſtitute them for their own good, and preſcribe ſuch rules and forms to them as beſt pleaſe themſelves, without giving account to any. But if every man be free, till he enter into ſuch a ſociety as he chuſeth for his own good, and thoſe ſocieties may regulate themſelves as they think fit; no more can be required to prove the natural equality in which all men are born, and continue, till they reſign it as into a common ſtock, in ſuch meaſure as they think fit for the conſtituting of ſocieties for their own good, which I aſſert, and our author denies. SECT. 13.

SECT. XIII.

There was no ſhadow of a paternal kingdom amongſt the Hebrews, nor precept for it.

OUR author is ſo modeſt to confeſs, that Jacob's kingdom, conſiſting of ſeventy-two perſons, was ſwallowed up by the power of the greater monarch Pharaoh: but if this was an act of tyranny, it is ſtrange that the ſacred and eternal right, grounded upon the immutable laws of God and nature, ſhould not be reſtored to God's choſen people, when he delivered them from that tyranny. Why was not Jacob's monarchy conferred upon his right heir? how came the people to neglect a point of ſuch importance? or if they did forget it, why did not Moſes put them in mind of it? why did not Jacob declare to whom it did belong? or if he is underſtood to have declared it, in ſaying the ſceptre ſhould not depart from Judah, why was it not delivered into his hands, or unto his heirs? If he was hard to be found in a people of one kindred, but four degrees removed from Jacob their head, who were exact in obſerving genealogies, how can we hope to find him after ſo many thouſand years, when we do not ſo much as know from whom we are derived? or rather how comes that right, which is eternal and univerſal, to have been nipped in the bud, and ſo aboliſhed before it could take any effect in the world, as never to have been heard of amongſt the gentiles, nor the people of God, either before or after the captivity, from the death of Jacob to this day? This I aſſert, and I give up the cauſe, if I do not prove it. To this end I begin with Moſes and Aaron the firſt rulers of the people, who were neither of the eldeſt tribe according to birth, nor the diſpoſition of Jacob, if he did, or could give it to any; nor were they of the eldeſt line of their own tribe; and even between them the ſuperiority was given to Moſes, who

CHAP. I. was the younger, as it is ſaid, "I have made thee a god to Pharaoh, and Aaron thy brother ſhall be thy prophet." If Moſes was a king, as our author ſays, but I deny, and ſhall hereafter prove, the matter is worſe: he muſt have been an uſurper of a moſt unjuſt dominion over his brethren; and this patriarchical power, which by the law of God was to be perpetually fixed in his deſcendents, periſhed with him, and his ſons continued in an obſcure rank amongſt the Levites. Joſhua of the tribe of Ephraim ſucceeded him; Othniel was of Judah, Ehud of Benjamin, Barak of Napthalim, and Gideon of Manaſſeh. The other judges were of ſeveral tribes; and they being dead, their children lay hid amongſt the common people, and we hear no more of them. The firſt king was taken out of the leaſt family of the leaſt and youngeſt tribe. The ſecond, whilſt the children of the firſt king were yet alive, was the youngeſt of eight ſons of an obſcure man in the tribe of Judah: Solomon one of his youngeſt ſons ſucceeded him: ten tribes deſerted Rehoboam, and by the command of God ſet up Jeroboam to be their king. The kingdom of Iſrael by the deſtruction of one family paſſed into another: that of Judah by God's peculiar promiſe continued in David's race till the captivity; but we know not that the eldeſt ſon was ever preferred, and have no reaſon to preſume it. David their moſt reverenced king left no precept for it, and gave an example to the contrary: he did not ſet up the eldeſt, but the wiſeſt. After the captivity they who had moſt wiſdom or valour to defend the people, were thought moſt fit to command; and the kingdom at the laſt came to the Aſmonean race, whilſt the poſterity of David was buried in the maſs of the common people, and utterly deprived of all worldly rule or glory. If the judges had not a regal power, or the regal were only juſt as inſtituted by God, and eternally annexed to paternity, all that they did was evil: there could be nothing of juſtice in the powers exerciſed by Moſes, Joſhua, Gideon, Samuel, and the reſt of the judges. If the power was regal and juſt, it muſt have continued in the deſcendents of the firſt: Saul, David, and Solomon, could never have been kings: the right failing in them, their deſcendents could inherit none from them; and the others after the captivity were guilty of the like injuſtice.

Now as the rule is not general, to which there is any one juſt exception, there is not one of theſe examples that would not overthrow our author's doctrine: if one deviation from it were lawful, another might be, and ſo to infinity. But the utmoſt degree of impudent madneſs to which perhaps any man in the world hath ever arrived, is to aſſert that to be univerſal and perpetual, which cannot be verified by any one example to have been in any place of the world, nor juſtified by any precept.

If it be objected, that all theſe things were done by God's immediate diſpoſition: I anſwer, that it were an impious madneſs to believe, that God did perpetually ſend his prophets to overthrow what he had ordained from the beginning, and as it were in ſpite to bring the minds of men into inextricable confuſion and darkneſs; and by particular commands to overthrow his univerſal and eternal law. But to render this point more clear, I deſire it may be conſidered, that we have but three ways of diſtinguiſhing between good and evil.

1. When

1. When God by his word reveals it to us.

2. When by his deeds he declareth it: Becauſe that which he does is good, as that which he ſays is true.

3. By the light of reaſon; which is good, inaſmuch as it is from God.

And firſt: It cannot be ſaid we have an explicit word for that continuance of the power in the eldeſt; for it appears not: and having none, we might conclude it to be left to our liberty. For it agrees not with the goodneſs of God to leave us in a perpetual ignorance of his will in a matter of ſo great importance; nor to have ſuffered his own people, or any other, to perſiſt, without the leaſt reproof or admonition, in a perpetual oppoſition to it, if it had diſpleaſed him.

To the ſecond: The diſpenſations of his providence, which are the emanations of his will, have gone contrary to this pretended law. There can therefore be no ſuch thing; for God is conſtant to himſelf: his works do not contradict his word; and both of them do equally declare to us that which is good.

Thirdly, If there be any precept, that by the light of nature we can in matters of this kind look upon as certain, it is, that the government of a people ſhould be given to him that can beſt perform the duties of it. No man has it for himſelf, or from himſelf; but for and from thoſe, who, before he had it, were his equals, that he may do good to them. If there were a man, who in wiſdom, valour, juſtice, and purity, ſurpaſſed all others, he might be called a king by nature; becauſe he is beſt able to bear the weight of ſo great a charge; and, like a good ſhepherd, to lead the people to good. "De-"tur digniori" is the voice of reaſon: and, that we may be ſure "detur ſeniori" is not ſo, Solomon tells us, "That a wiſe child is "better than an old and fooliſh king." But if this pretended right do not belong to him that is truly the eldeſt, nothing can be more abſurd than a fantaſtical pretence to a right deduced from him that is not ſo. Now leſt I ſhould be thought to follow my own inventions, and call them reaſon, or the light of God in us, I deſire it may be obſerved, that God himſelf has ever taken this method. When he raiſed up Moſes to be the leader of his people, he endowed him with the moſt admirable gifts of his Spirit that ever he beſtowed upon a man: when he choſe ſeventy men to aſſiſt him, he endowed them with the ſame Spirit. Joſhua had no other title to ſucceed him than the like evidence of God's preſence with him. When the people through ſin fell into miſery, he did not ſeek out their deſcendents, and ſuch as boaſted in a prerogative of birth; but ſhewed whom he deſigned for their deliverer, by beſtowing ſuch gifts upon him as were required for the performance of his work; and never failed of doing this, till that miſerable ſinful people, rejecting God, and his government, deſired that which was in uſe among their accurſed neighbours, that they might be as like to them in the moſt ſhameful ſlavery to man, as in the worſhip of idols ſet up againſt God.

But if this pretended right be grounded upon no word or work of God, nor the reaſon of man, it is to be accounted a mere figment, that hath nothing of truth in it.

SECT. XIV.

If the paternal right had included dominion, and was to be transferred to a ſingle heir, it muſt periſh if he were not known; and could be applied to no other perſon.

HAVING ſhewed, that the firſt kings were not fathers, nor the firſt fathers kings; that all the kings of the Jews and gentiles mentioned in Scripture came in upon titles different from, and inconſiſtent with, that of paternity; and that we are not led by the word nor the works of God, nor the reaſon of man, or light of nature, to believe there is any ſuch thing; we may ſafely conclude there never was any ſuch thing, or that it never had any effect; which to us is the ſame. 'Tis as ridiculous to think of retrieving that which from the beginning of the world was loſt, as to create that which never was. But I may go farther, and affirm, that tho' there had been ſuch a right in the firſt fathers of mankind exerciſed by them, and for ſome ages individually tranſmitted to their eldeſt ſons, it muſt neceſſarily periſh; ſince the generations of men are ſo confuſed, that no man knows his own original; and conſequently this heir is no-where to be found: for 'tis a folly for a man to pretend to an inheritance, who cannot prove himſelf to be the right heir. If this be not true, I deſire to know from which of Noah's ſons the kings of England, France, or Spain, do deduce their original; or what reaſon they can give, why the title to dominion, which is fanſied to be in Noah, did rather belong to the firſt of their reſpective races, that attained to the crowns they now enjoy, than to the meaneſt peaſant of their kingdoms; or how that can be tranſmitted to them, which was not in the firſt. We know, that no man can give what he hath not; that if there be no giver, there is no gift; if there be no root, there can be no branch; and that the firſt point failing, all that ſhould be derived from it muſt neceſſarily fail.

Our author, who is good at reſolving difficulties, ſhews us an eaſy way out of this ſtrait. "'Tis true," ſays he, "all kings are not natu-
"ral parents of their ſubjects; yet they either are, or are to be reputed,
"the next heirs to thoſe firſt progenitors, who were at firſt the na-
"tural parents of the whole people, and in their right ſucceed to the
"exerciſe of the ſupreme juriſdiction: and ſuch heirs are not only
"lords of their own children, but alſo of their brethren, and all
"thoſe that were ſubject to their father, &c. By this means it comes
"to paſs, that many a child ſucceeding a king hath the right of a
"father over many a grey-headed multitude, and hath the title of
"pater patriæ."

An aſſertion comprehending ſo many points, upon which the moſt important rights of all mankind do depend, might deſerve ſome proof: but he, being of opinion we ought to take it upon his credit, doth not vouchſafe to give us ſo much as the ſhadow of any. Nevertheleſs, being unwilling either crudely to receive, or raſhly to reject it, I ſhall take the liberty of examining the propoſition, and hope I may be pardoned, if I dwell a little more than ordinarily upon that which is the foundation of his work. SECT. 14.

We are beholden to him for confeſſing modeſtly, that all kings are not the natural fathers of their people, and ſparing us the pains of proving, that the kings of Perſia, who reigned from the Indies to the Helleſpont, did not beget all the men that lived in thoſe countries; or that the kings of France and Spain, who began to reign before they were five years old, were not the natural fathers of the nations under them. But if all kings are not fathers, none are, as they are kings: if any one is, or ever was, the rights of paternity belong to him, and to no other who is not ſo alſo. This muſt be made evident; for matters of ſuch importance require proof, and ought not to be taken upon ſuppoſition. If Filmer therefore will pretend, that the right of father belongs to any one king, he muſt prove, that he is the father of his people; for otherwiſe it doth not appertain to him; he is not the man we ſeek.

It is no leſs abſurd to ſay, he is to be reputed heir to the firſt progenitor: for it muſt be firſt proved, that the nation did deſcend from one ſingle progenitor without mixture of other races: that this progenitor was the man, to whom Noah (according to Filmer's whimſical diviſion of Aſia, Europe, and Africa, among his ſons) did give the land now inhabited by that people: that this diviſion ſo made was not capable of ſubdiviſions; and that this man is by a true and uninterrupted ſucceſſion deſcended from the firſt and eldeſt line of that progenitor; and all fails, if every one of theſe points be not made good. If there never was any ſuch man who had that right, it cannot be inherited from him. If by the ſame rule that a parcel of the world was allotted to him, that parcel might be ſubdivided amongſt his children as they increaſed, the ſubdiviſions may be infinite, and the right of dominion thereby deſtroyed. If ſeveral nations inhabit the ſame land, they owe obedience to ſeveral fathers: that which is due to their true father, cannot be rendered to him that is not ſo; for he would by that means be deprived of the right which is inſeparably annexed to his perſon: and laſtly, whatſoever the right of an heir may be, it can belong only to him that is heir.

Leſt any ſhould be ſeduced from theſe plain truths by frivolous ſuggeſtions, it is good to conſider, that the title of "pater patriæ," with which our author would cheat us, hath no relation to the matters of right, upon which we diſpute. It is a figurative ſpeech, that may have been rightly enough applied to ſome excellent princes on account of their care and love to their people, reſembling that of a father to his children; and can relate to none but thoſe who had it. No man that had common ſenſe, or valued truth, did ever call Phalaris, Dionyſius, Nabis, Nero, or Caligula, fathers of their countries;

CHAP. I. but monſters, that to the utmoſt of their power endeavoured their deſtruction: which is enough to prove that ſacred name cannot be given to all, and in conſequence to none but ſuch, as by their virtue, piety, and good government, do deſerve it.

Theſe matters will yet appear more evident, if it be conſidered, that tho' Noah had reigned as a king; that Zoroaſter, as ſome ſuppoſe, was Ham, who reigned over his children; and that thereby ſome right might perhaps be derived to ſuch as ſucceeded them; yet this can have no influence upon ſuch as have not the like original; and no man is to be preſumed to have it, till it be proved, ſince we have proved that many had it not. If Nimrod ſet himſelf up againſt his grandfather, and Ninus, who was deſcended from him in the fifth generation, ſlew him; they ill deſerved the name and rights of fathers; and none, but thoſe who have renounced all humanity, virtue, and common ſenſe, can give it to them, or their ſucceſſors. If therefore Noah and Shem had not ſo much as the ſhadow of regal power, and the actions of Nimrod, Ninus, and others, who were kings in their times, ſhew they did not reign in the right of fathers, but were ſet up in a direct oppoſition to it, the titles of the firſt kings were not from paternity, nor conſiſtent with it.

Our author therefore, who ſhould have proved every point, doth neither prove any one, nor aſſert that which is agreeable to divine or human ſtory, as to matter of fact; and as little conformable to common ſenſe. It does not only appear contrary to his general propoſition, that all governments have not begun with the paternal power; but we do not find, that any ever did. They who, according to his rules, ſhould have been lords of the whole earth, lived and died private men, whilſt the wildeſt and moſt boiſterous of their children commanded the greateſt part of the then inhabited world, not excepting even thoſe countries where they ſpent and ended their days; and inſtead of entering upon the government by the right of fathers, or managing it as fathers, they did by the moſt outrageous injuſtice uſurp a violent domination over their brethren and fathers.

It may eaſily be imagined what the right is, that could be thus acquired, and tranſmitted to their ſucceſſors. Nevertheleſs our author ſays, "all kings either are, or ought to be reputed next heirs, &c." But why reputed, if they were not? How could any of the accurſed race of Ham be reputed father of Noah or Shem, to whom he was to be a ſervant? How could Nimrod and Ninus be reputed fathers of Ham, and of thoſe whom they ought to have obeyed? Can reaſon oblige me to believe that which I know to be falſe? Can a lye, that is hateful to God and good men, not only be excuſed, but injoined, when (as he will perhaps ſay) it is for the king's ſervice? Can I ſerve two maſters, or, without the moſt unpardonable injuſtice, repute him to be my father, who is not my father; and pay the obedience that is due to him who did beget and educate me, to one from whom I never received any good? If this be ſo abſurd, that no man dares affirm it in the perſon of any, it is as prepoſterous in relation to his heirs: for Nimrod the firſt king could be heir to no man as king, and could tranſmit to no man a right which he had not. If it was ridiculous and abominable to ſay, that he was father of Cuſh, Ham, Shem,

Shem, and Noah; it is as ridiculous to ſay, he had the right of father, if he was not their father; or that his ſucceſſors inherited it from him, if he never had it. If there be any way through this, it muſt have accrued to him by the extirpation of all his elders, and their races; ſo as he who will aſſert this pretended right to have been in the Babylonian kings, muſt aſſert, that Noah, Shem, Japhet, Ham, Cuſh, and all Nimrod's elder brothers, with all their deſcendents, were utterly extirpated before he began to reign; and all mankind to be deſcended from him. SECT. 14.

This muſt be, if Nimrod, as the ſcripture ſays, was the firſt that became mighty in the earth; unleſs men might be kings, without having more power than others; for Cuſh, Ham, and Noah, were his elders and progenitors in the direct line; and all the ſons of Shem and Japhet, and their deſcendents in the collaterals, were to be preferred before him; and he could have no right at all, that was not directly contrary to thoſe principles, which, our author ſays, are grounded upon the eternal and indiſpenſable laws of God and nature. The like may be ſaid of the ſeventy-two heads of colonies, which (following, as I ſuppoſe, Sir Walter Raleigh), he ſays, went out to people the earth, and whom he calls kings: for, according to the ſame rule, Noah, Shem, and Japhet, with their deſcendents, could not be of the number; ſo that neither Nimrod, nor the others that eſtabliſhed the kingdoms of the world, and from whence he thinks all the reſt to be derived, could have any thing of juſtice in them, unleſs it were from a root altogether inconſiſtent with his principles. They are therefore falſe, or the eſtabliſhments before-mentioned could have no right. If they had none, they cannot be reputed to have any; for no man can think that to be true, which he knows to be falſe: having none, they could tranſmit none to their heirs and ſucceſſors. And if we are to believe, that all the kingdoms of the earth are eſtabliſhed upon this paternal right; it muſt be proved, that all thoſe, who in birth ought to have been preferred before Nimrod, and the ſeventy-two, were extirpated; or that the firſt and true heir of Noah did afterwards aboliſh all theſe unjuſt uſurpations; and, making himſelf maſter of the whole, left it to his heirs, in whom it continues to this day. When this is done, I will acknowledge the foundation to be well laid, and admit of all that can be rightly built upon it; but if this fails, all fails: the poiſon of the root continues in the branches. If the right heir be not in poſſeſſion, he is not the right who is in poſſeſſion: if the true heir be known, he ought to be reſtored to his right: if he be not known, the right muſt periſh: that cannot be ſaid to belong to any man, if no man knows to whom it belongs, and can have no more effect than if it were not. This concluſion will continue unmoveable, tho' the diviſion into ſeventy-two kingdoms were allowed; which cannot be without deſtroying the paternal power, or ſubjecting it to be ſubdivided into as many parcels as there are men, which deſtroys regality; for the ſame thing may be required in every one of the diſtinct kingdoms, and others derived from them. We muſt know who was that true heir of Noah, that recovered all: how, when, and to whom he gave the ſeveral portions; and that every one of them

CHAP. I. them do continue in the poſſeſſion of thoſe, who by this prerogative of birth are raiſed above the reſt of mankind; and if they are not, it is an impious folly to repute them ſo, to the prejudice of thoſe that are; and if they do not appear, to the prejudice of all mankind; who, being equal, are thereby made ſubject to them. For as truth is the rule of juſtice; there can be none, when he is reputed ſuperior to all who is certainly inferior to

[In this place two pages are wanting in the original manuſcript.]

—degenerated from that reaſon which diſtinguiſheth men from beaſts. Tho' it may be fit to uſe ſome ceremonies, before a man be admitted to practiſe phyſick, or ſet up a trade, it is his own ſkill that makes him a doctor, or an artificer; and others do but declare it. An aſs will not leave his ſtupidity, tho' he be covered with ſcarlet; and he that is by nature a ſlave, will be ſo ſtill, tho' a crown be put upon his head: and it is hard to imagine a more violent inverſion of the laws of God and nature, than to raiſe him to the throne, whom nature intended for the chain; or to make them ſlaves to ſlaves, whom God hath endowed with the virtues required in kings. Nothing can be more prepoſterous, than to impute to God the frantic domination, which is often exerciſed by wicked, fooliſh, and vile perſons, over the wiſe, valiant, juſt, and good; or to ſubject the beſt to the rage of the worſt. If there be any family therefore in the world, that can by the law of God and nature, diſtinct from the ordinance of man, pretend to an hereditary right of dominion over any people, it muſt be one that never did, and never can produce any perſon that is not free from all the infirmities and vices that render him unable to exerciſe the ſovereign power; and is endowed with all the virtues required to that end; or at leaſt a promiſe from God, verified by experience, that the next in blood ſhall ever be able and fit for that work. But ſince we do not know, that any ſuch hath yet appeared in the world, we have no reaſon to believe, that there is, or ever was any ſuch; and conſequently none upon whom God hath conferred the rights that cannot be exerciſed without them.

If there was no ſhadow of a paternal right in the inſtitution of the kingdoms of Saul and David, there could be none in thoſe that ſucceeded. Rehoboam could have no other, than from Solomon: when he reigned over two tribes, and Jeroboam over ten, it is not poſſible, that both of them could be the next heir of their laſt common father Jacob; and it is abſurd to ſay, that ought to be reputed, which is impoſſible: for our thoughts are ever to be guided by truth, or ſuch an appearance of it, as doth perſuade or convince us.

The ſame title of father is yet more ridiculouſly or odiouſly applied to the ſucceeding kings. Baaſha had no other title to the crown, than by killing Nadab the ſon of Jeroboam, and deſtroying his family. Zimri purchaſed the ſame honour by the ſlaughter of Elah when he was drunk; and dealing with the houſe of Baaſha, as

he had done with that of Jeroboam. Zimri, burning himſelf, tranſ- SECT. 15.
ferred the ſame to Omri, as a reward for bringing him to that extremity. As Jehu was more fierce than theſe, he ſeems to have gained a more excellent recompence than any ſince Jeroboam, even a conditional promiſe of a perpetual kingdom; but falling from theſe glorious privileges, purchaſed by his zeal in killing two wicked kings, and above one hundred of their brethren, Shallum inherited them, by deſtroying Zachary, and all that remained of his race. This in plain Engliſh is no leſs than to ſay, that whoſoever kills a king, and invades a crown, tho' the act and means of accompliſhing it be never ſo deteſtable, does thereby become father of his country, and heir of all the divine privileges annexed to that glorious inheritance. And tho' I cannot tell whether ſuch a doctrine be more ſottiſh, monſtrous, or impious, I dare affirm, that if it were received, no king in the world could think himſelf ſafe in his throne for one day: they are already encompaſſed with many dangers; but leſt pride, avarice, ambition, luſt, rage, and all the vices that uſually reign in the hearts of worldly men, ſhould not be ſufficient to invite them perpetually to diſturb mankind, through the deſire of gaining the power, riches, and ſplendor, that accompany a crown, our author propoſes to them the moſt ſacred privileges, as a reward of the moſt execrable crimes. He that was ſtirred up only by the violence of his own nature, thought that a kingdom could never be bought at too dear a rate;

——————" Pro regno velim
" Patriam, penates, conjugem flammis dare:
" Imperia precio quolibet conſtant bene." Senec. Theb. verſ. ult.

But if the ſacred character of God's anointed or vicegerent, and father of a country, were added to the other advantages that follow the higheſt fortunes; the moſt modeſt and juſt men would be filled with fury, that they might attain to them. Nay, it may be, even the beſt would be the moſt forward in conſpiring againſt ſuch as reigned: they who could not be tempted with external pleaſures, would be moſt in love with divine privileges; and ſince they ſhould become the ſacred miniſters of God, if they ſucceeded, and traitors or rogues only if they miſcarried, their only care would be ſo to lay their deſigns, that they might be ſurely executed. This is a doctrine worthy of Filmer's invention, and Heylin's approbation; which, being well weighed, will ſhew to all good and juſt kings how far they are obliged to thoſe, who, under pretence of advancing their authority, fill the minds of men with ſuch notions as are ſo deſperately pernicious to them.

SECT. XVI.

The antients choſe thoſe to be kings, who excelled in the virtues that are moſt beneficial to civil ſocieties.

IF the Iſraelites, whoſe lawgiver was God, had no king in the firſt inſtitution of their government, it is no wonder that other nations ſhould not think themſelves obliged to ſet up any: if they who came all of one ſtock, and knew their genealogies, when they did inſtitute kings, had no regard to our author's chimerical right of inheritance; nor were taught by God or his prophets to have any; it is not ſtrange, that nations, who did not know their own original, and who probably, if not certainly, came of ſeveral ſtocks, never put themſelves to the trouble of ſeeking one, who by his birth deſerved to be preferred before others: and various changes happening in all kingdoms (whereby in proceſs of time the crowns were tranſported into divers families, to which the right of inheritance could not without the utmoſt impiety and madneſs be imputed) ſuch a fancy certainly could only enter into the heads of fools; and we know of none ſo fooliſh to have harboured it.

The Grecians, amongſt others who followed the light of reaſon, knew no other original title to the government of a nation than that wiſdom, valour, and juſtice, which was beneficial to the people. Theſe qualities gave beginning to thoſe governments, which we call "heroum regna;" and the veneration paid to ſuch as enjoyed them, proceeded from a grateful ſenſe of the good received from them: they were thought to be deſcended from the gods, who in virtue and beneficence ſurpaſſed other men: The ſame attended their deſcendents, till they came to abuſe their power, and by their vices ſhewed themſelves like to, or worſe than others. Thoſe nations did not ſeek the moſt antient, but the moſt worthy; and thought ſuch only worthy to be preferred before others, who could beſt perform their duty. The Spartans knew, that Hercules and Achilles were not their fathers; for they were a nation before either of them were born; but thinking their children might be like to them in valour, they brought them from Thebes and Epirus to be their kings. If our author is of another opinion, I deſire to know, whether the Heraclidæ, or the Æacidæ were, or ought to be, reputed fathers of the Lacedemonians; for if the one was, the other was not.

The ſame method was followed in Italy; and they who eſteemed themſelves Aborigines, ——— "Qui rupto robore nati,
"Compoſitive luto, nullos habuere parentes." Juven. Sat. 6. l. 13.

could not ſet up one to govern them under the title of parent. They could pay no veneration to any man under the name of a common father, who thought they had none; and they who eſteemed themſelves equal, could have no reaſon to prefer any one, unleſs he were

were diſtinguiſhed from others by the virtues that were beneficial to all. This may be illuſtrated by matters of fact. Romulus and Remus, the ſons of a Nun, conſtrupated, as is probable, by a luſty ſoldier, who was ſaid to be Mars, for their vigour and valour were made heads of a gathered people. We know not that ever they had any children; but we are ſure they could not be fathers of the people that flocked to them from ſeveral places, nor in any manner be reputed heirs of him or them that were ſo; for they never knew who was their own father; and when their mother came to be diſcovered, they ought to have been ſubjects to Amulius, or Numitor, when they had ſlain him. They could not be his heirs whilſt he lived, and were not when he died: the government of the Latins continued at Alba, and Romulus reigned over thoſe who joined with him in building Rome. The power not coming to him by inheritance, muſt have been gained by force, or conferred upon him by conſent: it could not be acquired by force; for one man could not force a multitude of fierce and valiant men, as they appear to have been. It muſt therefore have been by conſent: and when he aimed at more authority than they were willing to allow, they ſlew him. He being dead, they fetched Numa from among the Sabines: he was not their father, nor heir to their father, but a ſtranger; not a conqueror, but an unarmed philoſopher. Tullus Hoſtilius had no other title: Ancus Martius was no way related to ſuch as had reigned. The firſt Tarquin was the ſon of a baniſhed Corinthian. Servius Tullus came to Rome in the belly of his captive mother, and could inherit nothing but chains from his vanquiſhed father. Tarquin the proud murdered him, and firſt took upon himſelf the title of king, "ſine juſſu populi." If this murder and uſurpation be called a conqueſt, and thought to create a right, the effect will be but ſmall: the conqueror was ſoon conquered, baniſhed, and his ſons ſlain, after which we hear no more of him, or his deſcendents. Whatſoever he gained from Servius, or the people, was ſoon loſt, and did accrue to thoſe that conquered and ejected him; and they might retain what was their own, or confer it upon one or more, in ſuch manner and meaſure as beſt pleaſed themſelves. If the regal power, which our author ſays was in the conſuls, could be divided into two parts, limited to a year, and ſuffer ſuch reſtrictions as the people pleaſed to lay upon it, they might have divided it into as many parcels, and put it into ſuch form, as beſt ſuited with their inclinations; and the ſeveral magiſtracies which they did create for the exerciſe of the kingly, and all other powers, ſhews that they were to give account to none but themſelves.

SECT. 16.

T. liv. L. 1. c. 49.

The Iſraelites, Spartans, Romans, and others, who thus framed their governments according to their own will, did it not by any peculiar privilege, but by a univerſal right conferred upon them by God and nature: they were made of no better clay than others; they had no right, that does not as well belong to other nations: that is to ſay, the conſtitution of every government is referred to thoſe who are concerned in it, and no other has any thing to do with it.

Yet

CHAP. I. Yet if it be aſſerted, that the government of Rome was paternal, or they had none at all; I deſire to know, how they came to have ſix fathers of ſeveral families, whilſt they lived under kings; and two or more new ones every year afterwards; or how they came to be ſo excellent in virtue and fortune, as to conquer the beſt part of the world, if they had no government. Hobbes indeed doth ſcurrilouſly deride Cicero, Plato and Ariſtotle, "cæteroſque Romanæ "& Græcæ anarchiæ fautores." But it is ſtrange, that this anarchy, which he reſembles to a chaos, full of darkneſs and confuſion, that can have no ſtrength or regular action, ſhould overthrow all the monarchies that came within their reach, "if (as our author ſays) the "beſt order, greateſt ſtrength, and moſt ſtability, be in them." It muſt therefore be confeſſed, that theſe governments are, in their various forms, rightly inſtituted by ſeveral nations, without any regard to inheritance; or that theſe nations have had no governments, and were more ſtrong, virtuous, and happy, without government, than under it; which is moſt abſurd.

But if governments ariſe from the conſent of men, and are inſtituted by men according to their own inclinations, they do therein ſeek their own good; for the will is ever drawn by ſome real good, or the appearance of it. This is that which man ſeeks by all the regular or irregular motions of his mind. Reaſon and paſſion, virtue and vice, do herein concur, tho' they differ vaſtly in the objects, in which each of them thinks this good to conſiſt. A people therefore that ſets up kings, dictators, conſuls, pretors, or emperors, does it not, that they may be great, glorious, rich, or happy, but that it may be well with themſelves, and their poſterity. This is not accompliſhed ſimply by ſetting one, a few, or more men in the adminiſtration of powers, but by placing the authority in thoſe who may rightly perform their office. This is not every man's work: valour, integrity, wiſdom, induſtry, experience, and ſkill, are required for the management of thoſe military and civil affairs that neceſſarily fall under the care of the chief magiſtrates. He or they therefore may reaſonably be advanced above their equals, who are moſt fit to perform the duties belonging to their ſtations, in order to the public good, for which they were inſtituted.

Marius, Sylla, Catiline, Julius or Octavius Cæſar, and all thoſe who by force or fraud uſurped a dominion over their brethren, could have no title to this right; much leſs could they become fathers of the people, by uſing all the moſt wicked means that could well be imagined to deſtroy them; and not being regularly choſen for their virtues, or the opinion of them, nor preferred on account of any prerogative that had been from the beginning annexed to their families, they could have no other right than occupation could confer upon them. If this can confer a right, there is an end of all diſputes concerning the laws of God or man. If Julius and Octavius Cæſar did ſucceſſively become lords and fathers of their country, by ſlaughtering almoſt all the ſenate, and ſuch perſons as were eminent for nobility or virtue, together with the major part of the people, it cannot be denied, that a thief, who breaks into his neighbour's houſe, and kills him, is juſtly maſter of his eſtate; and may exact the ſame obedience from his

his children, that they render to their father. If this right could be transferred to Tiberius, either through the malice of Octavius, or the fraud of his wife; a wet blanket laid over his face, and a few corrupted ſoldiers, could inveſt Caligula with the ſame. A vile raſcal pulling Claudius out by the heels from behind the hangings where he had hid himſelf, could give it to him. A diſh of muſhrooms well ſeaſoned by the infamous ſtrumpet his wife, and a potion prepared for Britannicus by Locuſta, could transfer it to her ſon, who was a ſtranger to his blood. Galba became heir to it, by driving Nero to deſpair and death. Two common ſoldiers, by exciting his guards to kill him, could give a juſt title to the empire of the world to Otho, who was thought to be the worſt man in it. If a company of villains in the German army, thinking it as fit for them as others, to create a father of mankind, could confer the dignity upon Vitellius; and if Veſpaſian, cauſing him to be killed, and thrown into a jakes leſs impure than his life, did inherit all the glorious and ſacred privileges belonging to that title; it is in vain to inquire after any man's right to any thing. SECT. 16.

If there be ſuch a thing as right or wrong to be examined by men, and any rules ſet, whereby the one may be diſtinguiſhed from the other; theſe extravagancies can have no effect of right. Such as commit them, are not to be looked upon as fathers; but as the moſt mortal enemies of their reſpective countries. No right is to be acknowledged in any, but ſuch as is conferred upon them by thoſe who have the right of conferring, and are concerned in the exerciſe of the power, upon ſuch conditions as beſt pleaſe themſelves. No obedience can be due to him or them, who have not a right of commanding. This cannot reaſonably be conferred upon any, that are not eſteemed willing and able rightly to execute it. This ability to perform the higheſt works that come within the reach of men; and integrity of will not to be diverted from it by any temptation, or conſideration of private advantages, comprehending all that is moſt commendable in man; we may eaſily ſee, that whenſoever men act according to the law of their own nature, which is reaſon, they can have no other rule to direct them in advancing one above another, than the opinion of a man's virtue and ability, beſt to perform the duty incumbent upon him; that is, by all means to procure the good of the people committed to his charge. He is only fit to conduct a ſhip, who underſtands the art of a pilot: when we are ſick, we ſeek the aſſiſtance of ſuch as are beſt ſkilled in phyſic: the command of an army is prudently conferred upon him that hath moſt induſtry, ſkill, experience, and valour: in like manner, he only can, according to the rules of nature, be advanced to the dignities of the world, who excels in the virtues required for the performance of the duties annexed to them; for he only can anſwer the end of his inſtitution. The law of every inſtituted power is, to accompliſh the end of its inſtitution, as creatures are to do the will of their creator, and, in deflecting from it, overthrow their own being. Magiſtrates are diſtinguiſhed from other men, by the power with which the law inveſts them for the public good: he that cannot or will not procure that good, deſtroys his own being, and becomes like to other men.

CHAP. I. In matters of the greateſt importance, " detur digniori " is the voice of nature; all her moſt ſacred laws are perverted, if this be not obſerved in the diſpoſition of the governments of mankind: but all is neglected and violated, if they are not put into the hands of ſuch as excel in all manner of virtues; for they only are worthy of them, and they only can have a right who are worthy, becauſe they only can perform the end for which they are inſtituted. This may ſeem ſtrange to thoſe, who have their heads infected with Filmer's whimſies; but to others, ſo certainly grounded upon truth, that * Bartholomew de las Caſas Biſhop of Chiapa, in a treatiſe written by him, and dedicated to the emperor Charles the Vth, concerning the Indies, makes it the foundation of all his diſcourſe, that notwithſtanding his grant of all thoſe countries from the Pope, and his pretenſions to conqueſt, he could have no right over any of thoſe nations, unleſs he did in the firſt place, as the principal end, regard their good: " The reaſon," ſays he, " is, that regard is to be had to the " principal end and cauſe, for which a ſupreme or univerſal lord is " ſet over them, which is their good and profit, and not that it ſhould " turn to their deſtruction and ruin; for if that ſhould be, there is " no doubt but from thenceforward, that power would be tyrannical " and unjuſt, as tending more to the intereſt and profit of that lord, " than to the public good and profit of the ſubjects; which, ac- " cording to natural reaſon, and the laws of God and man, is ab- " horred, and deſerves to be abhorred." And in another place ſpeaking of the governors, who, abuſing their power, brought many troubles and vexations upon the Indians, he ſays, † " they had " rendered his majeſty's government intolerable, and his yoke inſup- " portable, tyrannical, and moſt juſtly abhorred." I do not alledge this through an opinion, that a Spaniſh biſhop is of more authority than another man; but to ſhew, that theſe are common notions agreed by all mankind; and that the greateſt monarchs do neither refuſe to hear them, or to regulate themſelves according to them, till they renounce common ſenſe, and degenerate into beaſts.

But if that government be unreaſonable, and abhorred by the laws of God and man, which is not inſtituted for the good of thoſe that live under it; and an empire, grounded upon the donation of the Pope, which amongſt thoſe of the Roman religion is of great importance, and an entire conqueſt of the people, with whom there had been no former compact, do degenerate into a moſt unjuſt and deteſtable tyranny, ſo ſoon as the ſupreme lord begins to prefer his own intereſt or profit before the good of his ſubjects; what ſhall we ſay of thoſe who pretend to a right of dominion over free nations, as inſeparably united to their perſons, without diſtinction of age

* La razon es porque ſiempre ſe ha de tener reſpeto al fin y cauſa final, por el qual, el tal ſupremo y univerſal ſennor ſe les pone, que es ſu bien y utilitad; y a que no ſe le convierte el tal ſupremo ſennorio in danno, pernicie y deſtruycion. Porque ſi aſſi fueſſe, no ay que dudar, que non deſde entonees incluſivamente ſeria injuſto, Tyrannico y iniquo tal ſenorio, come mas ſe enderezaſſe al proprio intereſſe y provecho del ſennor, que al bien y utilitad comun de los ſubditos; lo qual de la razon natural y de todas las leycs humanas y divinas es abhorrecido y abhorreſcible. Bar. de las Caſas, deſter. de las Indias, pag. 111.

† El yugo y governacion de vueſtra mageſtad importable, tirannico y degr.o de todo abhorrecimento. Pag. 167.

age or ſex, or the leaſt conſideration of their infirmities and vices; as if they were not placed in the throne for the good of their people, but to enjoy the honours and pleaſures that attend the higheſt fortune? What name can be fit for thoſe, who have no other title to the places they poſſeſs, than the moſt unjuſt and violent uſurpation, or being deſcended from thoſe, who for their virtues were, by the people's conſent, duly advanced to the exerciſe of a legitimate power; and having ſworn to adminiſter it, according to the conditions upon which it was given, for the good of thoſe who gave it, turn all to their own pleaſure and profit, without any care of the public? Theſe may be liable to hard cenſures; but thoſe who uſe them moſt gently, muſt confeſs, that ſuch an extreme deviation from the end of their inſtitution, annuls it; and the wound thereby given to the natural and original rights of thoſe nations cannot be cured, unleſs they reſume the liberties, of which they have been deprived, and return to the antient cuſtom of chuſing thoſe to be magiſtrates, who for their virtues beſt deſerve to be preferred before their brethren, and are endowed with thoſe qualities that beſt enable men to perform the great end of providing for the public ſafety. SECT. 17.

SECT. XVII.

God, having given the government of the world to no one man, nor declared how it ſhould be divided, left it to the will of man.

OUR author's next inquiry is, "What becomes of the right of "fatherhood, in caſe the crown ſhould eſcheat for want of an "heir? Whether it doth not eſcheat to the people?" His anſwer is, "It is but the negligence or ignorance of the people, to loſe the "knowledge of the true heir, &c." And a little below, "The power "is not devolved to the multitude: no; the kingly power eſcheats "on independent heads of families: all ſuch prime heads have power "to conſent in the uniting, or conferring their fatherly right of "ſovereign authority on whom they pleaſe; and he that is ſo elected, "claims not his power as a donative from the people, but as being "ſubſtituted by God, from whom he receives his royal charter of "univerſal father," &c.

In my opinion, before he had aſked, What ſhould be done in caſe the crown ſhould eſcheat for want of an heir? He ought to have proved, there had been a man in the world, who had the right in himſelf, and telling who he was, have ſhewed how it had been tranſmitted for ſome generations, that we might know where to ſeek his heir; and before he accuſed the multitude of ignorance or negligence, in not knowing this heir, he ought to have informed us, how it may be poſſible to know him, or what it would avail us if we did know him; for it is in vain to know to whom a right belongs, that never was, and never can be executed. But we may go farther, and affirm, that as the univerſal right muſt have been in Noah and Shem

CHAP. I.

Shem (if in any), who never exerciſed it; we have reaſon to believe there never was any ſuch thing: and, having proved from Scripture and human hiſtory, that the firſt kingdoms were ſet up in a direct oppoſition to this right, by Nimrod and others, he that ſhould ſeek and find their heirs, would only find thoſe, who, by a moſt accurſed wickedneſs, had uſurped and continued a dominion over their fathers, contrary to the laws of God and nature; and we ſhould neither be more wiſe, nor more happy, than we are, tho' our author ſhould furniſh us with certain and authentic genealogies, by which we might know the true heirs of Nimrod, and the ſeventy-two kings that went from Babylon, who, as he ſuppoſes, gave beginning to all the kingdoms of the earth.

Moreover, if the right be univerſal, it muſt be in one; for the univerſe being but one, the whole right of commanding it cannot at the ſame time be in many, and proceed from the ordinance of God, or of man. It cannot proceed from the ordinance of God; for he doth nothing in vain: he never gave a right that could not be executed: no man can govern that which he does not ſo much as know: no man did ever know all the world; no man therefore did or could govern it: and none could be appointed by God to do that which is abſolutely impoſſible to be done; for it could not conſiſt with his wiſdom. We find this in ourſelves. It were a ſhame for one of us poor, weak, ſhort-ſighted creatures, in the diſpoſal of our affairs, to appoint ſuch a method, as were utterly ineffectual for the preſervation of our families, or deſtructive to them; and the blaſphemy of imputing to God ſuch an ordinance, as would be a reproach to one of us, can ſuit only with the wicked and impudent fury of ſuch as our author, who delights in monſters. This alſo ſhews us, that it cannot be from men: one, or a few, may commit follies; but mankind does not univerſally commit, and perpetually perſiſt in any: they cannot therefore, by a general and permanent authority, enact that which is utterly abſurd and impoſſible; or if they do, they deſtroy their own nature, and can no longer deſerve the name of reaſonable creatures. There can be therefore no ſuch man, and the folly of ſeeking him, or his heir that never was, may be left to the diſciples of Filmer.

The difficulties are as great, if it be ſaid, the world might be divided into parcels, and we are to ſeek the heirs of the firſt poſſeſſors; for beſides that no man can be obliged to ſeek that which cannot be found (all men knowing, that "caliginoſa nocte hæc premit Deus)," and that the genealogies of mankind are ſo confuſed, that, unleſs poſſibly among the Jews, we have reaſon to believe there is not a man in the world, who knows his own original, it could be of no advantage to us, tho' we knew that of every one; for the diviſion would be of no value, unleſs it were at the firſt rightly made by him who had all the authority in himſelf (which does no-where appear), and rightly deduced to him, who, according to that diviſion, claims a right to the parcel he enjoys: and I fear our author would terribly ſhake the crowns, in which the nations of Europe are concerned, if they ſhould be perſuaded to ſearch into the genealogies of their princes, and to judge of their rights according to the proofs they

Hor. od. l. III. xxix. 30.

ſhould

ſhould give of titles rightly deduced by ſucceſſion of blood from the ſeventy-two firſt kings, from whom our author fanſies all the kingdoms of the world to be derived. SECT. 17.

Beſides, tho' this were done, it would be to no purpoſe; for the ſeventy-two were not ſent out by Noah; nor was he, or his ſons, of that number; but they went or were ſent from Babylon, where Nimrod reigned, who, as has been already proved, neither had nor could have any right at all; but was a mighty hunter, even a proud and cruel tyrant, uſurping a power to which he had no right, and which was perpetually exerciſed by him and his ſucceſſors againſt God and his people, from whence I may ſafely conclude, that no right can ever be derived; and may juſtly preſume it will be denied by none who are of better morals, and of more ſound principles in matters of law and religion than Filmer and Heylin; ſince it is no leſs abſurd to deduce a right from him that had none, than to expect pure and wholſome waters from a filthy, polluted, and poiſonous fountain.

If it be pretended, that ſome other man ſince Noah had this univerſal right, it muſt either remain in one ſingle perſon, as his right heir, or be divided. If in one, I deſire to know who he is, and where we may find him, that the empire of the world may be delivered to him: but if he cannot be found, the buſineſs is at an end; for every man in the world may pretend himſelf to be the perſon; and the infinite controverſies ariſing thereupon can never be decided, unleſs either the genealogies of every one from Noah were extant and proved, or we had a word from heaven, with a ſufficient teſtimony of his miſſion who announceth it. When this is done, it will be time to conſider what kind of obedience is due to this wonderfully happy and glorious perſon. But whilſt the firſt appears to be abſolutely impoſſible, and we have no promiſe or reaſon to expect the other, the propoſition is to be eſteemed one of our author's empty whimſies, which cannot be received by mankind, unleſs they come all to be poſſeſſed with an epidemical madneſs, which would caſt them into that which Hobbes calls "bellum omnium contra omnes;" when every man's ſword would be drawn againſt every man, and every man's againſt him, if God ſhould ſo abandon the world to ſuffer them to fall into ſuch miſery.

If this pretended right be divided, it concerns us to know by whom, when, how, or to whom; for the diviſion cannot be of any value, unleſs the right was originally in one; that he did exerciſe this right in making the diviſion; that the parcels into which the world is divided are according to the allotment that was made; and that the perſons claiming them by virtue of it are the true heirs of thoſe to whom they were firſt granted. Many other difficulties may be alledged no leſs inextricable than theſe; but this ſeeming ſufficient for the preſent, I ſhall not trouble myſelf with more, promiſing that, when they ſhall be removed, I will propoſe others, or, confeſſing my errors, yield up the cauſe.

But if the dominion of the whole world cannot belong to any one man, and every one have an equal title to that which ſhould give it; or if it did belong to one, none did ever exerciſe it in governing the

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whole, or dividing it; or, if he did divide it, no man knows how, when, and to whom; ſo that they who lay claim to any parcels can give no teſtimony of that diviſion, nor ſhew any better title than other men derived from their firſt progenitor, to whom it is ſaid to have been granted; and that we have neither a word, nor the promiſe of a word, from God to decide the controverſies ariſing thereupon, nor any prophet giving teſtimony of his miſſion that takes upon him to do it, the whole fabric of our author's patriarchical dominion falls to the ground; and they who propoſe theſe doctrines, which (if they were received) would be the root of perpetual and irreconcilable hatred in every man againſt every man, can be accounted no leſs than miniſters of the devil, tho' they want the abilities he has ſometimes infuſed into thoſe who have been employed on the like occaſions. And we may juſtly conclude, that God having never given the whole world to be governed by one man; nor preſcribed any rule for the diviſion of it; nor declared where the right of dividing or ſubdividing that which every man has ſhould terminate; we may ſafely affirm, that the whole is for ever left to the will and diſcretion of man: we may enter into, form, and continue in, greater or leſſer ſocieties, as beſt pleaſes ourſelves: the right of paternity as to dominion is at an end; and no more remains, but the love, veneration, and obedience, which, proceeding from a due ſenſe of the benefits of birth and education, have their root in gratitude, and are eſteemed ſacred and inviolable by all that are ſober and virtuous. And as it is impoſſible to transfer theſe benefits by inheritance, ſo it is impoſſible to tranſfer the rights ariſing from them. No man can be my father but he that did beget me; and it is as abſurd to ſay I owe that duty to one who is not my father, which I owe to my father, as to ſay, he did beget me, who did not beget me; for the obligation that ariſes from benefits can only be to him that conferred them. It is in vain to ſay the ſame is due to his heir; for that can take place only when he has but one, which in this caſe ſignifies nothing: for if I, being the only ſon of my father, inherit his right, and have the ſame power over my children as he had over me; if I had one hundred brothers, they muſt all inherit the ſame; and the law of England, which acknowledges one only heir, is not general, but municipal; and is ſo far from being general, as the precept of God and nature, that I doubt whether it was ever known or uſed in any nation of the world beyond our iſland. The words of the apoſtle, "if we are children, "we are therefore heirs and co-heirs with Chriſt," are the voice of God and nature; and as the univerſal law of God and nature is always the ſame, every one of us who have children have the ſame right over them, as Abraham, Iſaac, and Jacob, had over theirs; and that right which was not devolved to any one of them, but inherited by them all (I mean the right of father as father, not the peculiar promiſes which were not according to the law of nature, but the election of grace) is alſo inherited by every one of us, and ours, that is, by all mankind. But if that which could be inherited was inherited by all, and it be impoſſible that a right of dominion over all can be due to every one, then all that is or can be inherited by every one is that exemption from the dominion of another, which we call liberty, and is the gift of God and nature.

SECT.

SECT. XVIII.

If a right of dominion were eſteemed hereditary according to the law of nature, a multitude of deſtructive and inextricable controverſies would thereupon ariſe.

THERE being no ſuch thing therefore, according to the law of nature, as an hereditary right to the dominion of the world, or any part of it; nor one man that can derive to himſelf a title from the firſt fathers of mankind, by which he can rightly pretend to be preferred before others to that command, or a part of it; and none can be derived from Nimrod, or other uſurpers, who had none in themſelves; we may juſtly ſpare our pains of ſeeking farther into that matter. But as things of the higheſt importance can never be too fully explained; it may not be amiſs to obſerve, that if mankind could be brought to believe, that ſuch a right of dominion were by the law of God and nature hereditary, a great number of the moſt deſtructive and inextricable controverſies muſt thereupon ariſe, which the wiſdom and goodneſs of God can never injoin, and nature, which is reaſon, can never intend; but at preſent I ſhall only mention two, from whence others muſt perpetually ſpring. Firſt, if there be ſuch a law, no human conſtitution can alter it: no length of time can be a defence againſt it: all governments that are not conformable to it are vicious and void even in their root, and muſt be ſo for ever: that which is originally unjuſt may be juſtly overthrown. We do not know of any (at leaſt in that part of the world in which we are moſt concerned) that is eſtabliſhed, or exerciſed with an abſolute power, as by the authors of thoſe opinions is eſteemed inſeparable from it: many, as the empire, and other ſtates, are directly contrary; and on that account can have no juſtice in them. It being certain therefore, that he or they, who exerciſe thoſe governments, have no right; that there is a man to whom it doth belong, and no man knowing who he is; there is no one man who has not as good a title to it as any other: there is not therefore one who hath not a right, as well as any, to overthrow that which hath none at all. He that hath no part in the government may deſtroy it, as well as he that has the greateſt; for he neither has that which God ordained he ſhould have, nor can ſhew a title to that which he enjoys from that original prerogative of birth, from whence it can only be derived.

If it be ſaid, that ſome governments are arbitrary, as they ought to be, and France, Turky, and the like be alledged as inſtances, the matter is not mended: for we do not only know when thoſe, who deſerve to be regarded by us, were not abſolute, and how they came to be ſo; but alſo, that thoſe very families which are now in poſſeſſion, are not of a very long continuance, had no more title to the original

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original right we ſpeak of than any other men, and conſequently can have none to this day. And tho' we cannot perhaps ſay, that the governments of the barbarous eaſtern nations were ever other than they are; yet the known original of them deprives them of all pretence to the patriarchical inheritance, and they may be as juſtly as any other deprived of the power to which they have no title.

In the ſecond place, tho' all mens genealogies were extant, and fully verified, and it were allowed, that the dominion of the world, or every part of it, did belong to the right heir of the firſt progenitor, or any other to whom the firſt did rightly aſſign the parcel, which is under queſtion; yet it were impoſſible for us to know who ſhould be eſteemed the true heir, or according to what rule he ſhould be judged ſo to be: for God hath not by a preciſe word determined it, and men cannot agree about it, as appears by the various laws and cuſtoms of ſeveral nations, diſpoſing ſeverally of hereditary dominions.

It is a folly to ſay, they ought to go to the next in blood; for it is not known who is that next. Some give the preference to him, who amongſt many competitors is the feweſt degrees removed from their common progenitor who firſt obtained the crown: others look only upon the laſt that poſſeſſed it. Some admit of repreſentation, by which means the grandchild of a king by his eldeſt ſon is preferred before his ſecond ſon, he being ſaid to repreſent his dead father, who was the eldeſt: others exclude theſe, and advance the younger ſon, who is nearer by one degree to the common progenitor that laſt enjoyed the crown than the grandchild. According to the firſt rule, Richard the ſecond was advanced to the crown of England, as ſon of the eldeſt ſon of Edward the third, before his uncles, who by one degree were nearer to the laſt poſſeſſor: and in purſuance of the ſecond, Sancho ſurnamed the Brave, ſecond ſon of Alphonſo the Wiſe, king of Caſtile, was preferred before Alphonſo ſon of Ferdinand his elder brother, according to the law of thaneſtry, which was in force in Spain ever ſince we have had any knowledge of that country, as appears by the conteſt between Corbis and Orſua, decided by combat before Scipio Africanus; continued in full force as long as the kingdom of the Goths laſted; and was ever highly valued, till the houſe of Auſtria got poſſeſſion of that country, and introduced laws and cuſtoms formerly unknown to the inhabitants.

The hiſtories of all nations furniſh us with innumerable examples of both ſorts; and whoſoever takes upon him to determine which ſide is in the right, ought to ſhew by what authority he undertakes to be the judge of mankind, and how the infinite breaches thereby made upon the rights of the governing families ſhall be cured, without the overthrow of thoſe that he ſhall condemn, and of the nations where ſuch laws have been in force as he diſlikes: and till that be done, in my opinion, no place will afford a better lodging for him, that ſhall impudently aſſume ſuch a power, than the new buildings in Moor-fields.

It is no leſs hard to decide, whether this next heir is to be ſought in the male line only, or whether females alſo be admitted. If we follow the firſt as the law of God and nature, the title of our Engliſh kings

kings is wholly aboliſhed; for not one of them, ſince Henry the 1ſt, has had the leaſt pretence to an inheritance by the maſculine line; and if it were neceſſary, we have enough to ſay of thoſe that were before them. SECT. 18.

If it be ſaid, that the ſame right belongs to females, it ought to be proved, that women are as fit as men to perform the office of a king, that is, as the Iſraelites ſaid to Samuel, to go in and out before us, to judge us, and to fight our battles; for it were an impious folly to ſay, that God had ordained thoſe for the offices on which the good of mankind ſo much depends, who by nature are unable to perform the duties of them. If on the other ſide, the ſweetneſs, gentleneſs, delicacy, and tenderneſs of the ſex, render them ſo unfit for manly exerciſes, that they are accounted utterly repugnant to, and inconſiſtent, with that modeſty which does ſo eminently ſhine in all thoſe that are good amongſt them; that law of nature which ſhould advance them to the government of men, would overthrow its own work, and make thoſe to be the heads of nations, which cannot be the heads of private families; for, as the apoſtle ſays, "the woman is "not the head of the man, but the man is the head of the woman." This were no leſs than to oblige mankind to lay aſide the name of reaſonable creature: for if reaſon be his nature, it cannot injoin that which is contrary to itſelf; if it be not, the definition "homo eſt "animal rationale," is falſe, and ought no longer to be aſſumed.

If any man think theſe arguments to be miſtaken or miſapplied, I deſire him to inquire of the French nation on what account they have always excluded females, and ſuch as deſcended from them? How comes the houſe of Bourbon to be advanced to the throne before a great number of families that come from the daughters of the houſe of Valois? Or what title thoſe could have before the daughters of the other lines, deſcended from Hugh Capet, Pepin, Meroveus, or Pharamond? I know not how ſuch queſtions would be received; but I am inclined to think, that the wickedneſs and folly of thoſe who ſhould thereby endeavour to overthrow the moſt antient and moſt venerated conſtitutions of the greateſt nations, and by that means to involve them in the moſt inextricable difficulties, would be requited only with ſtones.

It cannot be denied, that the moſt valiant, wiſe, learned, and beſt poliſhed nations, have always followed the ſame rule, tho' the * weak and barbarous acted otherwiſe; and no man ever heard of a queen, or a man deriving his title from a female among the antient civilized nations: but if this be not enough, the law of God, that wholly omits females, is ſufficient to ſhew, that nature, which is his handmaid, cannot advance them. When God deſcribes who ſhould be the king of his people (if they would have one), and how he ſhould govern; no mention is made of daughters. The Iſraelites offered the kingdom to Gideon, and to his ſons: God promiſed, and gave it to Saul, David, Jeroboam, Jehu, and their ſons. When all of them, ſave David, by their crimes fell from the kingdom, the Deut. xvii.

* ——Reginarumque ſub armis
Barbaries pars magna jacet. ——Lucan. Pharſ.

CHAP. I. males only were extirpated, and the females, who had no part in the promiſes, did not fall under the penalties, or the vengeance that was executed upon thoſe families: and we do not in the word of God, or in the hiſtory of the Jews, hear of any feminine reign, except that which was uſurped by Athaliah; nor that any conſideration was had of their deſcendents in relation to the kingdom: which is enough to ſhew that it is not according to the law of God, nor to the law of nature, which cannot differ from it. So that females, or ſuch as derive their right by inheritance from females, muſt have it from ſome other law, or they can have none at all.

But tho' this queſtion were authentically decided, and concluded, that females might or might not ſucceed, we ſhould not be at the end of our conteſts: for if they were excluded, it would not from thence follow, as in France, that their deſcendents ſhould be ſo alſo; for the privilege which is denied to them, becauſe they cannot, without receding from the modeſty and gentleneſs of the ſex, take upon them to execute all the duties required, may be transferred to their children, as Henry the ſecond, and Henry the ſeventh, were admitted, tho' their mothers were rejected.

If it be ſaid that every nation ought in this to follow their own conſtitutions, we are at an end of our controverſies; for they ought not to be followed, unleſs they are rightly made: They cannot be rightly made, if they are contrary to the univerſal law of God and nature. If there be a general rule, it is impoſſible but ſome of them, being directly contrary to each other, muſt be contrary to it. If therefore all of them are to be followed, there can be no general law given to all; but every people is by God and nature left to the liberty of regulating theſe matters relating to themſelves according to their own prudence or convenience: and this ſeems to be ſo certainly true, that whoſoever does, as our author, propoſe doctrines to the contrary, muſt either be thought raſhly to utter that which he does not underſtand, or maliciouſly to caſt balls of diviſion among all nations, whereby every man's ſword would be drawn againſt every man, to the total ſubverſion of all order and government.

SECT. XIX.

Kings cannot confer the right of father upon princes, nor princes upon kings.

LEST what has been ſaid before by our author ſhould not be ſufficient to accompliſh his deſign of bringing confuſion upon mankind, and ſome may yet lie ſtill for want of knowing at whoſe command he ſhould cut his brother's throat, if he has not power or courage to ſet up a title for himſelf, he has a new project that would certainly do his work, if it were received. Not content with the abſurdities and untruths already uttered in giving the incommunicable right of fathers, not only to thoſe who, as is manifeſtly teſtified

fied by ſacred and profane hiſtories, did uſurp a power over their fathers, or ſuch as owed no manner of obedience to them; and juſtifying thoſe uſurpations, which are moſt odious to God, and all good men, he now fanſies a kingdom ſo gotten may eſcheat for want of an heir; whereas there is no need of ſeeking any, if uſurpation can confer a right; and that he who gets the power into his hands ought to be reputed the right heir of the firſt progenitor; for ſuch a one will be ſeldom wanting, if violence and fraud be juſtified by the command of God, and nations ſtand obliged to render obedience, till a ſtronger or more ſucceſsful villain throws him from the throne he had invaded. But if it ſhould come to paſs that no man would ſtep into the vacant place, he has a new way of depriving the people of their right to provide for the government of themſelves. "Becauſe, ſays he, "the dependency of antient families is oft obſcure, and worn "out of knowledge; therefore the wiſdom of all or moſt princes hath "thought fit many times to adopt thoſe for heads of families, and "princes of provinces, whoſe merits, abilities, or fortunes, have "ennobled them, and made them fit and capable of ſuch royal "favours: all ſuch prime heads and fathers have power to conſent to "the uniting and conferring of their fatherly right and ſovereignty on "whom they pleaſe, &c." SECT. 19.

I may juſtly aſk how any one or more families come to be eſteemed more antient than others, if all are deſcended from one common father, as the Scriptures teſtify; or to what purpoſe it were to inquire what families were the moſt antient, if there were any ſuch, when the youngeſt and moſt mean by uſurpation gets an abſolute right of dominion over the eldeſt, tho' his own progenitors, as Nimrod did: but I may certainly conclude, that whatever the right be that belongs to thoſe antient families, it is inherent in them, and cannot be conferred on any other by any human power; for it proceeds from nature only. The duty I owe to my father does not ariſe from an uſurped or delegated power, but from my birth derived from him; and it is as impoſſible for any man to uſurp or receive by the grant of another the right of a father over me, as for him to become, or pretend to be made my father by another who did not beget me. But if he ſay true, this right of father does not ariſe from nature; nor the obedience that I owe to him that begot me, from the benefits which I have received, but is merely an artificial thing, depending upon the will of another: and that we may be ſure there can be no error in this, our author attributes it to the wiſdom of princes. But before this comes to be authentic, we muſt at the leaſt be ſure that all princes have this great and profound wiſdom, which our author acknowledges to be in them, and which is certainly neceſſary for the doing of ſuch great things, if they were referred to them. They ſeem to us to be born like other men, and to be generally no wiſer than other men. We are not obliged to believe that Nebuchadnezzar was wiſe, till God had given him the heart of a man; or that his grandſon Belſhazzar, who being laid in the balance was found too light, had any ſuch profound wiſdom. Ahaſuerus ſhewed it not in appointing all the people of God to be ſlain, upon a lye told to him by a raſcal; and the matter was not very much mended, when, being informed of the

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truth, he gave them leave to kill as many of their enemies as they pleaſed. The hardneſs of Pharaoh's heart, and the overthrow thereby brought upon himſelf and people, does not argue ſo profound a judgment as our author preſumes every prince muſt have: and it is not probable, that Samuel would have told Saul, "he had done fooliſhly," if kings had always been ſo exceeding wiſe: nay, if wiſdom had been annexed to the character, Solomon might have ſpared the pains of aſking it from God, and Rehoboam muſt have had it. Not to multiply examples out of Scripture, it is believed, that Xerxes had not inflicted ſtripes upon the ſea for breaking his navy in pieces, if he had been ſo very wiſe. Caligula for the ſame reaſon might have ſaved the labour of making love to the moon, or have choſen a fitter ſubject to advance to the conſulate than his horſe Incitatus: Nero had not endeavoured to make a woman of a man, nor married a man as a woman. Many other examples might be alledged to ſhew, that kings are not always wiſe: and not only the Roman ſatiriſt, who ſays "Quicquid delirant reges," &c. ſhews that he did not believe them to be generally wiſer than other men; but Solomon himſelf judges them to be as liable to infirmities, when he prefers a wiſe child before an old and fooliſh king. If therefore the ſtrength of our author's argument lies in the certainty of the wiſdom of kings, it can be of no value, till he proves it to be more univerſal in them than hiſtory or experience will permit us to believe. Nay, if there be truth or wiſdom in the Scripture, which frequently repreſents the wicked man as a fool, we cannot think, that all kings are wiſe, unleſs it be proved, that none of them have been wicked; and when this is performed by Filmer's diſciples, I ſhall confeſs my error.

Herod. l. vii. c. 35.

Sueton. vit. Cal. c. 22, et 55.

Horat. Epiſt. l. I. ii. 14.

Men give teſtimony of their wiſdom, when they undertake that which they ought to do, and rightly perform that which they undertake; both which points do utterly fail in the ſubject of our diſcourſe. We have often heard of ſuch as have adopted thoſe to be their ſons who were not ſo, and ſome civil laws approve it. This ſignifies no more, than that ſuch a man, either through affection to one who is not his ſon, or to his parents, or for ſome other reaſon, takes him into his family, and ſhews kindneſs to him, as to his ſon; but the adoption of fathers is a whimſical piece of nonſenſe. If this be capable of an aggravation, I think none can be greater, than not to leave it to my own diſcretion, who, having no father, may reſolve to pay the duty I owed to my father to one who may have ſhewed kindneſs to me; but for another to impoſe a father upon a man, or a people compoſed of fathers, or ſuch as have fathers, whereby they ſhould be deprived of that natural honour and right, which he makes the foundation of his diſcourſe, is the utmoſt of all abſurdities. If any prince therefore have ever undertaken to appoint fathers of his people, he cannot be accounted a man of profound wiſdom, but a fool, or a madman; and his acts can be of no value. But if the thing were conſonant to nature, and referred to the will of princes (which I abſolutely deny) the frequent extravagancies committed by them in the elevation of their favourites ſhew, that they intend not to make them fathers of the people, or know not what they do when they do it.

To

To chuſe or inſtitute a father is nonſenſe in the very term; but if any were to be choſen to perform the office of fathers to ſuch as have none, and are not of age to provide for themſelves (as men do tutors or guardians for orphans) none could be capable of being elected, but ſuch as in kindneſs to the perſon they were to take under their care, did moſt reſemble his true father, and had the virtues and abilities required rightly to provide for his good. If this fails, all right ceaſes; and ſuch a corruption is introduced as we ſaw in our court of wards, which the nation could not bear, when the inſtitution was perverted, and the king, who ought to have taken a tender care of the wards and their eſtates, delivered them as a prey to thoſe whom he favoured. SECT. 19.

Our author ridiculouſly attributes the title and authority of father to the word prince; for it hath none in it, and ſignifies no more than a man who in ſome kind is more eminent than the vulgar. In this ſenſe Mutius Scævola told Porſenna, that "three hundred "princes of the Roman youth had conſpired againſt him:" by which he could not mean, that three hundred fathers of the Roman youth, but three hundred Roman young men had conſpired: and they could not be fathers of the city, unleſs they had been fathers of their own fathers. "Princeps ſenatus" was underſtood in the ſame ſenſe; and T. Sempronius the cenſor, chuſing Q. Fabius Maximus to that honour, gave for a reaſon, "ſe lecturum Q. Fabium Maximum, quem tum "principem Romanæ civitatis eſſe, vel Annibale judice, dicturus eſſet;" which could not be underſtood that Hannibal thought him to be the father or lord of the city (for he knew he was not); but the man, who for wiſdom and valour was the moſt eminent in it. Trecenti Romanæ juventutis principes. T. Liv. l. ii. c. 12. T. Liv. l. xxvii. c. 11.

The like are, and ought to be, the princes of every nation; and tho' ſomething of honour may juſtly be attributed to the deſcendents of ſuch as have done great ſervices to their country, yet they who degenerate from them cannot be eſteemed princes; much leſs can ſuch honours or rights be conferred upon court-creatures or favourites. Tiberius, Caligula, Claudius, Nero, Galba, and others, could advance Macro, Pallas, Narciſſus, Tigellinus, Vinnius, Laco, and the like, to the higheſt degrees of riches and power; but they ſtill continued to be villains, and ſo they died.

No wiſe or good man ever thought otherwiſe of thoſe who through the folly of princes have been advanced to the higheſt places in ſeveral countries. The madneſs of attributing to them a paternal power ſeems to have been peculiarly reſerved to complete the infamy of our author; for he only could acknowledge a cooptitious father, or give to another man the power of chuſing him. I confeſs that a man in his infancy may have been expoſed, like Moſes, Cyrus, Oedipus, Romulus: he may have been taken in war; or by the charity of ſome good perſon ſaved from the teeth of wild beaſts, or from the ſword by which his parents fell, and may have been educated with that care which fathers uſually have of their children: it is reaſonable, that ſuch a one in the whole courſe of his life ſhould pay that veneration and obedience to him, who gave him as it were a ſecond birth, which was due to his natural father; and this, tho' improperly, may be called an adoption. But to think that any man can aſſume it to himſelf;

CHAP. I. ſelf, or confer it upon another; and thereby arrogate to himſelf the ſervice and obedience, which, by the moſt tender and ſacred laws of nature, we owe to thoſe from whom we receive birth and education'; is the moſt prepoſterous folly that hitherto has ever entered into the heart of man.

Our author nevertheleſs is not aſhamed of it, and gives reaſons no way unſuitable to the propoſition. "Men are, ſays he, adopted fa-"thers of provinces for their abilities, merits, or fortunes." But theſe abilities can ſimply deſerve nothing; for if they are ill employed, they are the worſt of vices, and the moſt powerful inſtruments of miſchief. Merits in regard of another, are nothing, unleſs they be to him; and he alone can merit from me the reſpect due to a father, who hath conferred benefits upon me, in ſome meaſure proportionable to thoſe, which we uſually receive from our fathers: and the world may judge, whether all the court-miniſters and favourites that we have known, do upon this account deſerve to be eſteemed fathers of nations. But to allow this on account of their fortunes, is, if poſſible, more extravagant than any thing that hath been yet utter'd. By this account Mazarin muſt have been father of the French nation: the ſame right was inherited by his chaſte niece, and remained in her, till ſhe and her ſilly huſband diſſipated the treaſures which her uncle had torn from the bowels of that people. The partizans may generally claim the ſame right over the provinces they have pillaged: old Audley, Dog Smith, Bp. Duppa, Brownloe, Child, Daſhwood, Fox, &c. are to be eſteemed fathers of the people of England. This doctrine is perfectly canonical, if Filmer and Heylin were good divines: and legal, if they judged more rightly touching matters of law. But if it be abſurd and deteſtable, they are to be reputed men, who, by attributing the higheſt honours to the vileſt wretches of the world, for what they had gained by the moſt abominable means, endeavour to increaſe thoſe vices, which are already come to ſuch a height, that they can by no other way be brought to a greater. Daily experience too plainly ſhews, with what rage avarice uſually fills the hearts of men. There are not many deſtructive villainies committed in the world, that do not proceed from it. In this reſpect it is called "idolatry," and "the root of all "evil." Solomon warns us to beware of ſuch as make haſte to grow rich, and ſays, they ſhall not be innocent. But it is no matter what the prophets, the apoſtles, or the wiſeſt men, ſay of riches, and the ways of gaining them; for our author tells us, that men of the greateſt fortunes, without examining how they came to them, or what uſe they make of them, deſerve to be made fathers of provinces.

But this is not his only quarrel with all that is juſt and good: his whole book goes directly againſt the letter and ſpirit of the ſcripture. The work of all thoſe, whom God in ſeveral ages has raiſed up to announce his word, was to abate the luſts and paſſions that ariſe in the hearts of men; to ſhew the vanity of worldly enjoyments, with the dangers that accompany riches and honours, and to raiſe our hearts to the love of thoſe treaſures that periſh not. Honeſt and wiſe men, following the light of nature, have in ſome meaſure

meaſure imitated this. Such as lived private lives, as Plato, Socrates, Epictetus, and others, made it their buſineſs to abate mens luſts, by ſhewing the folly of ſeeking vain honours, uſeleſs riches, or unſatiſfying pleaſures; and thoſe who were like to them, if they were raiſed to ſupreme magiſtracies, have endeavoured by the ſevereſt puniſhments to reſtrain men from committing the crimes by which riches are moſt commonly gained: but Filmer and Heylin lead us into a new way. If they deſerve credit, whoſoever would become ſupreme lord and father of his country, abſolute, ſacred, and inviolable, is only to kill him that is in the head of the government: uſurpation confers an equal right with election or inheritance: we are to look upon the power, not the ways by which it is obtained: poſſeſſion only is to be regarded; and men muſt venerate the preſent power, as ſet up by God, tho' gained by violence, treachery, or poiſon: children muſt not impoſe laws upon, nor examine the actions of their father. Thoſe who are a little more modeſt, and would content themſelves with the honour of being fathers and lords only of provinces, if they get riches by the favour of the king, or the favour of the king by riches, may receive that honour from him: the lord paramount may make them peculiar lords of each province as ſacred to himſelf; and by that means every man ſhall have an immediate and ſubaltern father. This would be a ſpur to excite even the moſt ſleeping luſts; and a poiſon that would fill the gentleſt ſpirits with the moſt violent furies. If men ſhould believe this, there would hardly be found one of whom it might not be ſaid, "Hac ſpe, minanti fulmen, occurret Jovi." No more is required to fill the world with fire and blood, than the reception of theſe precepts: no man can look upon that as a wickedneſs, which ſhall render him ſacred; nor fear to attempt that which ſhall make him God's vicegerent. And I doubt, whether the wickedneſs of filling mens heads with ſuch notions was ever equalled, unleſs by him who ſaid, "Ye ſhall not die, but be as gods."

SECT. 19.

Senec. Theb.

But ſince our author is pleaſed to teach us theſe ſtrange things, I wiſh he would alſo have told us, how many men in every nation ought to be looked upon as adopted fathers: what proportion of riches, ability, or merit, is naturally or divinely required to make them capable of this ſublime character: whether the right of this chimerical father does not deſtroy that of the natural; or whether both continue in force, and men thereby ſtand obliged, in deſpite of what Chriſt ſaid, to ſerve two maſters. For if the right of my artificial father ariſe from any act of the king, in favour of his riches, abilities, or merit, I ought to know whether he is to excel in all, or any one of theſe points; how far; and which of them gives the preference; ſince it is impoſſible for me to determine whether my father, who may be wiſe, tho' not rich, is thereby diveſted of his right, and it comes to be transferred to another, who may be rich, tho' not wiſe, nor of any perſonal merit at all, till that point be decided; or ſo much as to gueſs, when I am emancipated from the duty I owe to him, by whom I was begotten and educated, unleſs I know whether he be fallen from his right, through want of merit, wiſdom, or eſtate; and that can never be, till it be determined, that

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that he hath forfeited his right, by being defective in all or any of the three; and what proportion of merit, wiſdom, or eſtate, is required in him, for the enjoyment of his right, or in another that would acquire it: for no man can ſucceed to the right of another, unleſs the firſt poſſeſſor be rightly deprived of it; and it cannot belong to them both, becauſe common ſenſe univerſally teaches, that two diſtinct perſons cannot, at the ſame time, and in the ſame degree, have an equal right to the ſame individual thing.

The right of father cannot therefore be conferred upon princes by kings, but muſt for ever follow the rule of nature. The character of a father is indelible, and incommunicable: the duty of children ariſing from benefits received is perpetual, becauſe they can never not have received them; and can be due only to him from whom they are received. For theſe reaſons, we ſee, that ſuch as our author calls princes, cannot confer it upon a king; for they cannot give what they have not in themſelves: they who have nothing, can give nothing: they who are only ſuppoſititious, cannot make another to be real; and the whimſy of kings making princes to be fathers, and princes conferring that right on kings, comes to nothing.

SECT. XX.

All juſt magiſtratical power is from the people.

HAVING proved that the right of a father proceeds from the generation and education of his children; that no man can have that right over thoſe, whom he hath not begotten and educated: that every man hath it over thoſe, who owe their birth and education to him; that all the ſons of Noah, Abraham, Iſaac, Jacob, and others, did equally inherit it; that, by the ſame reaſon, it doth for ever belong to every man that begets children; it plainly appears, that no father can have a right over others, unleſs it be by them granted to him, and that he receive his right from thoſe who granted it. But our author, with an admirable ſagacity peculiar to himſelf, diſcovers, and with equal confidence tells us, that that which is from the people, or the chief heads of them, is not from the people: "he that is ſo elected, ſays he, claims "not his right from the people as a donative, but from God." That is, if I miſtake not, Romulus was not made king of the Romans by that people, but by God: thoſe men, being newly gathered together, had two fathers, tho' neither of them had any children; and no man knew who was their father, nor which of them was the elder: but Romulus by the ſlaughter of his brother decided all queſtions, and purchaſed to himſelf a royal charter from God; and the act of the people which conferred the power on him, was the act of God. We had formerly learnt, that whatſoever was done by monarchs, was to be imputed to God; and that whoſoever murdered the father of a people, acquired the ſame right to himſelf: but now it ſeems, that nations alſo have the ſame privilege, and that God

God doth, what they do. Now I underſtand why it was ſaid of old, Sect. 19.
" Vox populi eſt vox Dei :" but if it was ſo in regard of Romulus, the ſame muſt be confeſſed of Tullus Hoſtilius, Ancus Martius, Tarquinius Priſcus, and Servius Tullus ; who being all ſtrangers to each other, and moſt of them aliens alſo, were ſucceſſively advanced by the ſame people, without any reſpect to the children, relations, or heirs of their predeceſſors. And I cannot comprehend, why the act of the ſame people ſhould not have the ſame virtue, and be equally attributed to God, when they gave the ſame or more power to conſuls, military tribunes, decemviri, or dictators ; or why the ſame divine character ſhould not be in the ſame manner conferred upon any magiſtracies, that by any people have been, are, or ſhall be at any time erected for the ſame ends.

Upon the ſame grounds we may conclude, that no privilege is peculiarly annexed to any form of government ; but that all magiſtrates are equally the miniſters of God, who perform the work for which they were inſtituted ; and that the people which inſtitutes them, may proportion, regulate and terminate their power, as to time, meaſure, and number of perſons, as ſeems moſt convenient to themſelves, which can be no other than their own good. For it cannot be imagined that a multitude of people ſhould ſend for Numa, or any other perſon to whom they owed nothing, to reign over them, that he might live in glory and pleaſure ; or for any other reaſon, than that it might be good for them and their poſterity. This ſhews the work of all magiſtrates to be always and every-where the ſame, even the doing of juſtice, and procuring the welfare of thoſe that create them. This we learn from common ſenſe : Plato, Ariſtotle, Cicero, and the beſt human authors, lay it as an unmoveable foundation, upon which they build their arguments relating to matters of that nature : and the apoſtle from better authority declares, " That Rom. xiii.
" rulers are not a terror to good works, but to evil : wilt thou then
" be afraid of the power ? Do that which is good, and thou ſhalt
" have praiſe of the ſame ; for he is the miniſter of God unto thee
" for good : but if thou do that which is evil, be afraid ; for he
" beareth not the ſword in vain ; for he is the miniſter of God, a
" revenger to execute wrath upon him that doth evil." And the
reaſon he gives " for praying for kings, and all that are in authority," 1 Tim. ii.
is, " that we may live a quiet and peaceable life, in all godlineſs and
" honeſty." But if this be the work of the magiſtrate, and the glorious name of God's miniſter be given to him for the performance of it, we may eaſily ſee to whom that title belongs. " His children
" and ſervants ye are, whoſe works ye do." He therefore, and he only, is the ſervant of God, who does the work of God ; who is a terror to thoſe that do evil, and a praiſe to thoſe that do well ; who beareth the ſword for the puniſhment of wickedneſs and vice, and ſo governs, that the people may live quietly in all godlineſs and honeſty. The order of his inſtitution is inverted, and the inſtitution vacated, if the power be turned to the praiſe of thoſe that do evil, and becomes a terror to ſuch as do well ; and that none who live honeſtly and juſtly can be quiet under it. If God be the fountain of juſtice, mercy, and truth, and thoſe his ſervants who walk in them, no exerciſe of vio-

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lence, fraud, cruelty, pride, or avarice, is patronized by him: and they who are the authors of thoſe villainies, cannot but be the miniſters of him, who ſets himſelf up againſt God; becauſe it is impoſſible, that truth and falſhood, mercy and cruelty, juſtice and the moſt violent oppreſſion, can proceed from the ſame root. It was a folly and a lye in thoſe Jews, to call themſelves the children of Abraham, who did not the works of Abraham; and Chriſt declared
John viii. 39. them to be the children of the Devil, whoſe works they did: which words, proceeding from the eternal truth, do as well indicate to us, whoſe child and ſervant every man is to be accounted, as to thoſe who firſt heard them.

If our author's former aſſertions were void of judgment and truth, his next clauſe ſhews a great defect in his memory, and contradicts the former: "The judgments of God," ſays he, "who hath power "to give and take away kingdoms, are moſt juſt; yet the miniſtry "of men, who execute God's judgments without commiſſion, is ſin-"ful and damnable." If it be true, as he ſays, that we are to look at the power, not the ways by which it is gained; and that he who hath it, whether it be by uſurpation, conqueſt, or any other means, is to be accounted as father, or right heir to the father of the people, to which title the moſt ſublime and divine privileges are annexed, a man, who by the moſt wicked and unjuſt actions advances himſelf to the power, becomes immediately the father of the people, and the miniſter of God; which I take to be a piece of divinity worthy our author and his diſciples.

It may be doubted what he means by a commiſſion from God; for we know of none but what is outwardly by his word, or inwardly by his Spirit; and I am apt to think, that neither he nor his abettors allowing of either, as to the point in queſtion, he doth foully prevaricate, in alledging that which he thinks cannot be of any effect. If any man ſhould ſay, that the word of God to Moſes, Joſhua, Ehud, Gideon, Samuel, Jeroboam, and Jehu, or any others, are, in the like caſes, rules to be obſerved by all; becauſe that which was from God was good; that which was good, is good; and he that does good, is juſtified by it; he would probably tell us, that what was good in them, is not good in others; and that the word of God doth juſtify thoſe only to whom it is ſpoken: that is to ſay, no man can execute the juſt judgments of God, to the benefit of mankind, according to the example of thoſe ſervants of God, without damnable ſin, unleſs he have a preciſe word particularly directed to him for it, as Moſes had. But if any man ſhould pretend, that ſuch a word was come to him, he would be accounted an enthuſiaſt, and obtain no credit. So that, which way ſoever the clauſe be taken, it appears to be full of fraud, confeſſing only in the theory, that which he thinks can never be brought into practice; that his beloved villainies may be thereby ſecured, and that the glorious examples of the moſt heroic actions, performed by the beſt and wiſeſt men that ever were in the world for the benefit of mankind, may never be imitated.

The next clauſe ſhews, that I did our author no wrong in ſaying, that he gave a right to uſurpation; for he plainly ſays, "That "whether

" whether the prince be the ſupreme father of his people, or the Sect. 19.
" true heir of ſuch a father; or whether he come to the crown by
" uſurpation, or election of the nobles or people, or by any other
" way whatſoever, &c. it is the only right and authority of the na-
" tural father." In the 3d Chap. Sect. 8. " It ſkills not which way
" the king comes by his power, whether by election, donation, ſuc-
" ceſſion, or by any other means." And in another place, " That
" we are to regard the power, not the means by which it is gained."
To which I need ſay no more, than that I cannot ſufficiently admire
the ingeniouſly invented title of father by uſurpation; and confeſs,
that ſince there is ſuch a thing in the world, to which not only private
men, but whole nations owe obedience, whatſoever has been ſaid
antiently (as was thought, to expreſs the higheſt exceſs of fury and
injuſtice), as, " jus datum ſceleri; jus omne in ferro eſt ſitum; jus Lucan, &c.
" licet in jugulos noſtros ſibi fecerit enſe; Sylla potens, Mariuſque
" ferox, & Cinna cruentus, Cæſareæque domus ſeries," were ſolid
truths, good law and divinity; which did not only ſignify the actual
exerciſe of the power, but induced a conſcientious obligation of obey-
ing it. The powers ſo gained did carry in themſelves the moſt
ſacred and inviolable rights; and the actors of the moſt deteſtable
villainies thereby became the miniſters of God, and the fathers of
their ſubdued people. Or if this be not true, it cannot be denied,
that Filmer and his followers, in the moſt impudent and outragious
blaſphemy, have ſurpaſſed all that have gone before them.

To confirm his aſſertions, he gives us a wonderful explanation of
the fifth commandment; which, he ſays, injoins obedience to princes,
under the terms of " honour thy father and thy mother;" drawing
this inference, " that as all power is in the father, the prince who
" hath it, cannot be reſtrained by any law; which being grounded
" upon the perfect likeneſs between kings and fathers, no man can
" deny it to be true." But if Claudius was the father of the Roman
people, I ſuppoſe the chaſte Meſſalina was the mother, and to be
honoured by virtue of the ſame commandment: but then I fear that
ſuch as met her in the moſt obſcene places, were not only guilty of
adultery, but of inceſt. The ſame honour muſt needs belong to
Nero, and his virtuous Poppæa, unleſs it were transferred to his new-
made woman Sporus; or perhaps he himſelf was the mother, and
the glorious title of " pater patriæ " belonged to the raſcal, who
married him as a woman. The like may be ſaid of Agathocles,
Dionyſius, Phalaris, Buſiris, Machanidas, Peter the Cruel of Caſtile,
Chriſtiern of Denmark, the laſt princes of the houſe of Valois in
France, and Philip the ſecond of Spain. Thoſe actions of theirs,
which men have ever eſteemed moſt deteſtable, and the whole courſe
of their abominable government, did not proceed from pride, avarice,
cruelty, madneſs, and luſt, but from the tender care of moſt pious
fathers. Tacitus ſadly deſcribes the ſtate of his country: " Urbs in- Hiſt. l. i. c. 2.
" cendiis vaſtata, conſumtis antiquiſſimis delubris, ipſo capitolio
" civium manibus incenſo; pollutæ ceremoniæ; magna adulteria;
" plenum exiliis mare; infecti cædibus ſcopuli; atrocius in urbe
" ſævitum; nobilitas, opes, omiſſi vel geſti honores pro crimine, et
" ob virtutes certiſſimum exitium." But he was to blame: all this

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proceeded from the ardency of paternal affection. When Nero, by the death of Helvidius Priſcus and Thraſeas, endeavoured to cut up virtue by the roots, "ipſam exſcindere virtutem," he did it, becauſe he knew it was good for the world that there ſhould be no virtuous man in it. When he fired the city, and when Caligula wiſhed the people had but one neck, that he might ſtrike it off at one blow, they did it through a prudent care of their childrens good, knowing that it would be for their advantage to be deſtroyed; and that the empty deſolated world would be no more troubled with popular ſeditions. By the ſame rule Pharaoh, Eglon, Nabuchodonoſor, Antiochus, Herod, and the like, were fathers of the Hebrews. And without looking far backward, or depending upon the faith of hiſtory, we may enumerate many princes, who in a paternal care of their people, have not yielded to Nero or Caligula. If our author ſay true, all thoſe actions of theirs, which we have attributed to the utmoſt exceſs of pride, cruelty, avarice, and perfidiouſneſs, proceeded from their princely wiſdom, and fatherly kindneſs to the nations under them: and we are beholden to him for the diſcovery of ſo great a myſtery, which hath been hid from mankind from the beginning of the world to this day: if not, we may ſtill look upon them as children of the devil; and continue to believe, that princes as well as other magiſtrates were ſet up by the people for the public good; that the praiſes given to ſuch as are wiſe, juſt, and good, are purely perſonal, and can belong only to thoſe, who by a due exerciſe of their power do deſerve it, and to no others.

Tacit. Ann. l. xvi. 21.

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CHAP. II.

SECT. I.

That it is natural for nations to govern, or to chuſe governors; and that virtue only gives a natural preference of one man above another, or reaſon why one ſhould be choſen rather than another.

IN this chapter our author fights valiantly againſt Bellarmine and Suarez, ſeeming to think himſelf victorious, if he can ſhew that either of them hath contradicted the other, or himſelf; but being no way concerned in them, I ſhall leave their followers to defend their quarrel: my work is to ſeek after truth; and, tho' they may have ſaid ſome things, in matters not concerning their beloved cauſe of popery, that are agreeable to reaſon, law, or ſcripture, I have little hope of finding it among thoſe who apply themſelves chiefly to ſchool-ſophiſtry, as the beſt means to ſupport idolatry. That which I maintain, is the cauſe of mankind; which ought not to ſuffer, tho' champions of corrupt principles have weakly defended, or maliciouſly betrayed it: and therefore not at all relying on their authority, I intend to reject whatſoever they ſay that agrees not with reaſon, ſcripture, or the approved examples of the beſt poliſhed nations. He alſo attacks Plato and Ariſtotle, upon whoſe opinions I ſet a far greater value, inaſmuch as they ſeem to have penetrated more deeply into the ſecrets of human nature; and not only to have judged more rightly of the intereſts of mankind, but alſo to have comprehended in their writings the wiſdom of the Grecians, with all they had learnt from the Phœnicians, Egyptians, and Hebrews; which may lead us to the diſcovery of the truth we ſeek. If this be our work, the queſtion is not, whether it be a "paradox," or "a received "opinion, that people naturally govern, or chuſe governors," but whether it be true or not; for many paradoxes are true, and the moſt groſs errors have often been moſt common. Tho' I hope to prove, that what he calls a paradox, is not only true; but a truth planted in the hearts of men, and acknowledged ſo to be by all that have hearkened to the voice of nature, and diſapproved by none, but ſuch as through wickedneſs, ſtupidity, or baſeneſs of ſpirit, ſeem to have degenerated into the worſt of beaſts, and to have retained nothing of men, but the outward ſhape, or the ability of doing thoſe miſchiefs which they have learnt from their maſter the Devil.

We have already ſeen, that the patriarchical power reſembles not the regal in principle or practice: that the beginning and continuance of regal power was contrary to, and inconſiſtent with the patriarchical:

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triarchical: that the firſt fathers of mankind left all their children independent on each other, and in an equal liberty of providing for themſelves: that every man continued in this liberty, till the number ſo increaſed, that they became troubleſome and dangerous to each other; and finding no other remedy to the diſorders growing, or like to grow among them, joined many families into one civil body, that they might the better provide for the conveniency, ſafety, and defence of themſelves and their children. This was a collation of every man's private right into a public ſtock; and no one having any other right than what was common to all, except it were that of fathers over their children, they were all equally free when their fathers were dead; and nothing could induce them to join, and leſſen that natural liberty by joining in ſocieties, but the hopes of a public advantage. Such as were wiſe and valiant procured it, by ſetting up regular governments, and placing the beſt men in the adminiſtration; whilſt the weakeſt and baſeſt fell under the power of the moſt boiſterous and violent of their neighbours. Thoſe of the firſt ſort had their root in wiſdom and juſtice, and are called lawful kingdoms or commonwealths; and the rules by which they are governed, are known by the name of laws. Theſe governments have ever been the nurſes of virtue: the nations living under them have flouriſhed in peace and happineſs, or made wars with glory and advantage: whereas the other ſort, ſpringing from violence and wrong, have ever gone under the odious title of tyrannies; and by fomenting vices, like to thoſe from whence they grew, have brought ſhame and miſery upon thoſe who were ſubject to them. This appears ſo plainly in ſcripture, that the aſſertors of liberty want no other patron than God himſelf; and his word ſo fully juſtifies what we contend for, that it were not neceſſary to make uſe of human authority, if our adverſaries did not oblige us to examine ſuch as are cited by them. This, in our preſent caſe, would be an eaſy work, if our author had rightly marked the paſſages he would make uſe of, or had been faithful in his interpretation or explication of ſuch as he truly cites; but failing groſly in both, it is hard to trace him.

He cites the 16th chapter of the third book of Ariſtotle's politics, and I do not find there is more than twelve; or tho' that wound might be cured, by ſaying the words are in the twelfth, his fraud in perverting the ſenſe were unpardonable, tho' the other miſtake be paſſed over. It is true that Ariſtotle doth there ſeem to doubt whether there be any ſuch thing as one man naturally a lord over many citizens, ſince a city conſiſts of equals: but in the whole ſcope of that chapter, book, and his other writings, he fully ſhews his doubt did not ariſe from an imagination that one man could naturally inherit a right of dominion over many not deſcended from him; or that they were born under a neceſſity of being ſlaves to him (for ſuch fancies can proceed only from diſtempered brains); but that civil ſocieties aiming at the public good, thoſe who by nature were endowed with ſuch virtues or talents as were moſt beneficial to them, ought to be preferred. And nothing can be more contrary to the frantic whimſy of our author, who fanſies an hereditary prerogative of dominion inherent in a perſon as father of a people,

or

or heir, or to be reputed heir of the firſt father, when it is certain he is not, but that either he or his predeceſſor came in by election or uſurpation, than to ſhew that it is only wiſdom, juſtice, valour, and other commendable virtues, which are not hereditary, that can give the preference; and that the only reaſon why it ſhould be given, is, that men ſo qualified can better than others accompliſh the ends for which ſocieties are conſtituted: for tho', ſays he, all are equally free, all are not equally endowed with thoſe virtues that render liberty ſafe, proſperous, and happy. That equality which is juſt among equals, is juſt only among equals; but ſuch as are baſe, ignorant, vicious, ſlothful, or cowardly, are not equal in natural or acquired virtues, to the generous, wiſe, valiant, and induſtrious; nor equally uſeful to the ſocieties in which they live: they cannot therefore have an equal part in the government of them; they cannot equally provide for the common good; and it is not a perſonal, but a public benefit, that is ſought in their conſtitution and continuance. There may be a hundred thouſand men in an army, who are all equally free; but they only are naturally moſt fit to be commanders or leaders, who moſt excel in the virtues required for the right performance of thoſe offices; and that, not becauſe it is good for them to be raiſed above their brethren, but becauſe it is good for their brethren to be guided by them, as it is ever good to be governed by the wiſeſt and the beſt. If the nature of man be reaſon, "detur "digniori," in matters of this kind, is the voice of nature; and it were not only a deviation from reaſon, but a moſt deſperate and miſchievous madneſs, for a company going to the Indies, to give the guidance of their ſhip to the ſon of the beſt pilot in the world, if he want the ſkill required to that employment, or to one who was maliciouſly ſet to deſtroy them; and he only can have a right grounded upon the dictates of nature, to be advanced to the helm, who beſt knows how to govern it, and has given the beſt teſtimonies of his integrity and intentions to employ his ſkill for the good of thoſe that are imbarked. But as the work of a magiſtrate, eſpecially if he be the ſupreme, is the higheſt, nobleſt, and moſt difficult, that can be committed to the charge of a man, a more excellent virtue is required in the perſon who is to be advanced to it, than for any other; and he that is moſt excellent in that virtue, is reaſonably and naturally to be preferred before any other. Ariſtotle having this in his view, ſeems to think, that thoſe who believed it not to be natural for one man to be lord of all the citizens, ſince a city conſiſts of equals, had not obſerved that inequality of endowments, virtues, and abilities, in men, which render ſome more fit than others, for the performance of their duties, and the work intended; but it will not be found, as I ſuppoſe, that he did ever dream of a natural ſuperiority, that any man could ever have in a civil ſociety, unleſs it be ſuch a ſuperiority in virtue, as moſt conduces to the public good.

SECT. 1.

Ariſt. pol.

He confirms this in proceeding to examine the different ſorts of governments, according to the different diſpoſitions of nations; and is ſo bold to ſay, "that a popular government is the beſt for a people, "who are naturally generous and warlike: that the government of a "few

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" few ſuits beſt with thoſe, among whom a few men are found to ex-
" cel others in thoſe virtues that are profitable to ſocieties; and that the
" government of one is good, when that one does ſo far ſurpaſs all
" others in thoſe virtues, that he hath more of them than all the reſt
" of the people together:" and for the ſame reaſon that induced him to believe that equality is juſt amongſt equals, he concludes inequality of power to be moſt unjuſt, unleſs there be inequality of merit; and equality of power to be ſo alſo, when there is inequality of virtue, that being the only rule by which every man's part ought to be regulated.

But if it be neither reaſonable nor juſt that thoſe who are not equal in virtue ſhould be made equal in power; or that ſuch as are equal in virtue ſhould be unequal in power, the moſt brutal and abominable of all extravagancies is to make one or a few, who in virtue and abilities to perform civil functions are inferior to others, ſuperior to all in power; and the miſeries ſuffered by thoſe nations, who inverting the laws of nature and reaſon, have placed children, or men of no virtue, in the government, when men that excelled in all virtues were not wanting, do ſo far manifeſt this truth, that the pains of proving it may be ſpared.

It is not neceſſary for me to inquire, whether it be poſſible to find ſuch a man as Ariſtotle calls " naturâ regem," or whether he intended to recommend Alexander to the world, for the man deſigned by God and nature to be king over all, becauſe no man was equal to him in the virtues that were beneficial to all. For purſuing my poſition, that virtue only can give a juſt and natural preference, I ingenuouſly confeſs, that when ſuch a man, or race of men, as he deſcribes, ſhall appear in the world, they carry the true marks of ſovereignty upon them: we ought to believe, that God has raiſed them above all, whom he has made to excel all: it were an impious folly to think of reducing him into the ordinary level of mankind, whom God has placed above it. It were better for us to be guided by him, than to follow our own judgment; nay, I could almoſt ſay, it were better to ſerve ſuch a maſter, than to be free. But this will be nothing to the purpoſe, till ſuch a man, or ſucceſſion of men, do appear; and if our author would perſuade us, that all mankind, or every particular, is obliged to a perpetual ſubjection to one man or family, upon any other condition, he muſt do it by the credit of thoſe who favour his deſign more than Ariſtotle.

I know not who that will be, but am confident he will find no help from Plato: for if his principles be examined, by which a grave author's ſenſe is beſt comprehended, it will appear, that all his books of laws, and of a commonwealth, are chiefly grounded upon this, " that magiſtrates are choſen by ſocieties, ſeeking their own good;
" and that the beſt men ought to be choſen for the attaining of it:" whereas his whole deſign of ſeeking which is the beſt form of government, or what laws do moſt conduce to its perfection and permanency (if one rule were by nature appointed for all, and none could juſtly tranſgreſs it; if God had deſigned an univerſal lord over the whole world, or a particular one over every nation, who could be bound by no law), were utterly abſurd; and they who write books

Plato de leg. & de republ.

concerning

concerning political matters, and take upon them to inſtruct nations how to govern themſelves, would be found either fooliſhly to miſ-ſpend their time, or impiouſly to incite people to rebel againſt the ordinance of God. If this can juſtly be imputed to Plato, he is not the wiſe man he is ſuppoſed to have been; and can leſs deſerve the title of divine, which our author gives him: but if he remain juſtly free from ſuch cenſures, it muſt be confeſſed, that whilſt he ſeeks what is good for a people, and to convince them by reaſon that it is ſo, he takes it for granted, that they have a liberty of chuſing that which appears to be the beſt to them. He firſt ſays, "that this good Plato de leg.
"conſiſts in the obtaining of juſtice;" but farther explaining himſelf, he ſhews, "that under the name of juſtice he comprehends all that tends
"to their perfection and felicity; inaſmuch as every people, by join-
"ing in a civil ſociety, and creating magiſtrates, doth ſeek its own
"good; and it is juſt, that he or they who are created, ſhould, to the
"utmoſt of their power, accompliſh the end of their creation, and
"lead the people to juſtice, without which there is neither perfection
"nor happineſs: that the proper act of juſtice is to give to every one
"his due; to man that which belongs to man, and to God that which
"is God's. But as no man can be juſt, or deſire to be ſo, unleſs he know,
"that juſtice is good; nor know that it is good, unleſs he know that
"original juſtice and goodneſs, through which all that is juſt is juſt,
"and all that is good is good, it is impoſſible for any man to perform
"the part of a good magiſtrate, unleſs he have the knowledge of
"God; or to bring a people to juſtice, unleſs he bring them to the
"knowledge of God, who is the root of all juſtice and goodneſs." If Plato therefore deſerve credit, he only can duly perform the part of a good magiſtrate, whoſe moral virtues are ripened and heightened by a ſuperinduction of divine knowledge. "The miſery of
"man proceeds from his being ſeparated from God: this ſeparation is
"wrought by corruption: his reſtitution therefore to felicity and in-
"tegrity, can only be brought about by his reunion to the good from
"which he is fallen." Plato looks upon this as the only worthy object of man's deſire; and in his laws and politics he intends not to teach us how to erect manufactures, and to increaſe trade or riches; but how magiſtrates may be helpful to nations in the manner before-mentioned, and conſequently what men are fit to be magiſtrates. If our author therefore would make uſe of Plato's doctrine to his end, he ought to have proved, that there is a family in every nation, to the chief of which, and ſucceſſively to the next in blood, God does ever reveal and infuſe ſuch a knowledge of himſelf, as may render him a light to others; and, failing in this, all that he ſays is to no purpoſe.

SECT. I.

The weakneſs in which we are born, renders us unable to attain the good of ourſelves: we want help in all things, eſpecially in the greateſt. The fierce barbarity of a looſe multitude, bound by no law, and regulated by no diſcipline, is wholly repugnant to it: whilſt every man fears his neighbour, and has no other defence than his own ſtrength, he muſt live in that perpetual anxiety which is equally contrary to that happineſs, and that ſedate temper of mind which is required for the ſearch of it. The firſt ſtep towards the

CHAP. II. cure of this peſtilent evil, is for many to join in one body, that every one may be protected by the united force of all; and the various talents that men poſſeſs, may by good diſcipline be rendered uſeful to the whole; as the meaneſt piece of wood or ſtone, being placed by a wiſe architect, conduces to the beauty of the moſt glorious building. But every man bearing in his own breaſt affections, paſſions, and vices, that are repugnant to this end, and no man owing any ſubmiſſion to his neighbour; none will ſubject the correction or reſtriction of themſelves to another, unleſs he alſo ſubmit to the ſame rule. They are rough pieces of timber or ſtone, which it is neceſſary to cleave, ſaw, or cut: this is the work of a ſkilful builder, and he only is capable of erecting a great fabric, who is ſo: magiſtrates are political architects; and they only can perform the work incumbent on them, who excel in political virtues. Nature, in variouſly framing the minds of men, according to the variety of uſes in which they may be employed, in order to the inſtitution and preſervation of civil ſocieties, muſt be our guide, in allotting to every one his proper work. And Plato, obſerving this variety, affirms, "that the laws of nature cannot be more abſurdly violated, than by "giving the government of a people to ſuch, as do not excel others in "thoſe arts and virtues that tend to the ultimate ends for which "governments are inſtituted." By this means thoſe who are ſlaves by nature, or rendered ſo by their vices, are often ſet above thoſe that God and nature had fitted for the higheſt commands; and ſocieties which ſubſiſt only by order, fall into corruption, when all order is ſo prepoſterouſly inverted, and the moſt extreme confuſion introduced. This is an evil that Solomon deteſted: "Folly is ſet in "great dignity, and the rich ſit in low places: I have ſeen ſervants "upon horſes, and princes walking as ſervants upon the earth." They who underſtand Solomon's language, will eaſily ſee, that the rich, and the princes he means, are ſuch only who are rich in virtue and wiſdom, and who ought to be preferred for thoſe qualities: and when he ſays, a ſervant that reigneth is one of the "three things the "earth cannot bear," he can only mean ſuch as deſerve to be ſervants; for when they reign, they do not ſerve, but are ſerved by others: which perfectly agrees with what we learn from Plato, and plainly ſhews, that true philoſophy is perfectly conformable with what is taught us by thoſe who were divinely inſpired. Therefore, tho' I ſhould allow to our author, that Ariſtotle, in thoſe words, "it ſeems "to ſome, not to be natural for one man to be lord of all the citizens, "ſince the city conſiſts of equals," did ſpeak the opinion of others rather than his own; and ſhould confeſs, that he and his maſter Plato, did acknowledge a natural inequality among men; it would be nothing to his purpoſe: for the inequality, and the rational ſuperiority due to ſome, or to one, by reaſon of that inequality, did not proceed from blood or extraction, and had nothing patriarchical in it; but conſiſted ſolely in the virtues of the perſons, by which they were rendered more able than others to perform their duty, for the good of the ſociety. Therefore, if theſe authors are to be truſted, whatſoever place a man is advanced to in a city, it is not for his own ſake, but for that of the city; and we are not to aſk who was his father, but what

Eccl. x. 7.

are

are his virtues in relation to it. This induces a neceſſity of diſtin- SECT. I.
guiſhing between a ſimple and a relative inequality; for, if it were poſſible for a man to have great virtues, and yet no-way beneficial to the ſociety of which he is, or to have ſome one vice that renders them uſeleſs, he could have no pretence to a magiſtratical power more than any other. They who are equally free, may equally enjoy their freedom; but the powers that can only be executed by ſuch as are endowed with great wiſdom, juſtice, and valour, can belong to none, nor be rightly conferred upon any, except ſuch as excel in thoſe virtues. And if no ſuch can be found, all are equally by turns to participate of the honours annexed to magiſtracy; and law, which is ſaid to be written reaſon, cannot juſtly exalt thoſe whom nature, which is reaſon, hath depreſſed, nor depreſs thoſe whom nature hath exalted. It cannot make kings ſlaves, nor ſlaves kings, without introducing that evil, which, if we believe Solomon, and the Spirit by which he ſpoke, "the earth cannot bear." This may diſcover what lawgivers deſerve to be reputed wiſe or juſt; and what decrees or ſanctions ought to be reputed laws. Ariſtotle, proceeding by this rule, rather tells us, who is naturally a king, than where we ſhould find him; and after having given the higheſt praiſes to this true natural king, and his government, he ſticks not to declare that of one man, in virtue equal or inferior to others, to be a mere tyranny, even the worſt of all, as it is the corruption of the beſt (or, as our author calls it, the moſt divine), and ſuch as can be fit only for thoſe barbarous and ſtupid nations, which, tho' bearing the ſhape of men, are little different from beaſts. Whoever therefore will from Ariſtotle's words infer, that nature has deſigned one man, or ſucceſſion of men, to be lords of every country, muſt ſhew that man to be endowed with all the virtues, that render him fit for ſo great an office, which he does not bear for his own pleaſure, glory, or profit, but for the good of thoſe that are under him; and, if that be not done, he muſt look after other patrons than Ariſtotle for his opinion.

Plato does more explicitly ſay, that the civil or politic man, the ſhepherd, father, or king of a people, is the ſame, deſigned for the ſame work, enabled to perform it by the excellency of the ſame virtues, and made perfect by the infuſion of the divine wiſdom. This is Plato's monarch, and I confeſs, that whereſoever he does appear in the world, he ought to be accounted as ſent from God for the good of that people. His government is the beſt that can be ſet up among men; and if aſſurance can be given, that his children, heirs, or ſucceſſors, ſhall for ever be equal to him in the above-mentioned virtues, it were a folly, and a ſin, to bring him under the government of any other, or to an equality with them, ſince God had made him to excel them all; and it is better for them to be ruled by him, than to follow their own judgment. This is that which gives him the preference: "He is wiſe through the knowledge of the truth, Plato in Al-
"and thereby becomes good, happy, pure, beautiful, and perfect. The cib. l. i. 2.
"divine light, ſhining forth in him, is a guide to others; and he is a fit
"leader of a people to the good that he enjoys." If this can be expreſſed by words in faſhion, this is his Prerogative; this is the Royal Charter given

CHAP. II.

given to him by God; and to him only, who is ſo adapted for the performance of his office. He that ſhould pretend to the ſame privileges, without the ſame abilities to perform the works for which they are granted, would exceed the folly of a child, that takes upon him a burden which can only be borne by a giant; or the madneſs of one who preſumes to give phyſic, and underſtands not the art of a phyſician, thereby drawing guilt upon himſelf, and death upon his patient. It were as vain to expect that a child ſhould carry the giant's burden, and that an ignorant man ſhould give wholſome phyſic, as that one who lives void of all knowledge of good, ſhould conduct men to it. Whenſoever therefore ſuch a man, as is above-deſcribed, does not appear, nature and reaſon inſtruct us to ſeek him or them who are moſt like to him; and to lay ſuch burdens upon them as are proportionable to their ſtrength; which is as much as to ſay, to prefer every man according to his merit, and aſſign to every one ſuch works as he ſeems able to accompliſh.

But that Plato and Ariſtotle may neither be thought unreaſonably addicted to monarchy; nor, wholly rejecting it, to have talked in vain of a monarch, that is not to be found; it is good to conſider that this is not a fiction. Moſes, Joſhua, Samuel, and others, were ſuch as they define; and were made to be ſuch, by that communion with God which Plato requires: and he in all his writings, intending the inſtitution of ſuch a diſcipline as ſhould render men happy, wiſe, and good, could take no better way to bring his countrymen to it, than by ſhewing them, that wiſdom, virtue, and purity, only, could make a natural difference among men.

'Tis not my work to juſtify theſe opinions of Plato, and his ſcholar Ariſtotle: they were men, and, tho' wiſe and learned, ſubject to error. If they erred in theſe points, it hurts not me, nor the cauſe I maintain, ſince I make no other uſe of their books, than to ſhew the impudence and prevarication of thoſe, who gather ſmall ſcraps out of good books, to juſtify their aſſertions concerning ſuch kings as are known amongſt us; which, being examined, are found to be wholly againſt them; and, if they were followed, would deſtroy their perſons and power.

But our author's intention being only to cavil, or to cheat ſuch as are not verſed in the writings of the antients, or at leaſt to cauſe thoſe who do not make truth their guide, to waver and fluctuate in their diſcourſes, he does in one page ſay, "That without doubt Moſes's "hiſtory of the creation guided theſe philoſophers in finding out this "lineal ſubjection:" and in the next affirms, "That the ignorance of "the creation occaſioned ſeveral amongſt the heathen philoſophers to "think that men met together as herds of cattel:" whereas they could not have been ignorant of the creation, if they had read the books that Moſes writ; and having that knowledge, they could not think that men met together as herds of cattle. However, I deny that any of them did ever dream of that lineal ſubjection, derived from the firſt parents of mankind, or that any ſuch thing was to be learnt from Moſes. Tho' they did not perhaps juſtly know the beginning of mankind, they did know the beginnings and progreſs of the governments under which they lived; and, being aſſured that the firſt

kingdoms had been thoſe, which they called " heroum regna," that is, of thoſe who had been moſt beneficial to mankind; that their deſcendents in many places, degenerating from their virtues, had given nations occaſion to ſet up ariſtocracies; and they alſo falling into corruption, to inſtitute democracies, or mixed governments; did rightly conclude, that every nation might juſtly order their own affairs according to their own pleaſure, and could have neither obligation nor reaſon to ſet up one man or a few above others, unleſs it did appear to them that they had more of thoſe virtues, which conduce to the good of civil ſocieties, than the reſt of their brethren. SECT. 2.

Our author's cavil upon Ariſtotle's opinion, " That thoſe who are " wiſe in mind are by nature fitted to be lords, and thoſe who are " ſtrong of body ordained to obey," deſerves no anſwer; for he plainly falſifies the text: Ariſtotle ſpeaks only of thoſe qualities which are required for every purpoſe; and means no more, than that ſuch as are eminent in the virtues of the mind deſerve to govern, tho' they do not excel in bodily ſtrength; and that they who are ſtrong of body, tho' of little underſtanding, and uncapable of commanding, may be uſeful in executing the commands of others: but is ſo far from denying that one man may excel in all the perfections of mind and body, that he acknowledges him only to be a king by nature who does ſo, both being required for the full performance of his duty. And if this be not true, I ſuppoſe that one who is like Agrippa Poſthumus, " corporis viribus ſtolide ferox," may be fit to govern many nations; and Moſes or Samuel, if they naturally wanted bodily ſtrength, or that it decayed by age, might juſtly be made ſlaves, which is a diſcovery worthy our author's invention. Tac. ann. l. i. 3.

SECT. II.

Every man that hath children, hath the right of a father, and is capable of preferment in a ſociety compoſed of many.

I Am not concerned in making good what Suarez ſays: a jeſuit may ſpeak that which is true; but it ought to be received, as from the devil, cautiouſly, leſt miſchief be hid under it: and Sir Robert's frequent prevarications upon the ſcripture, and many good authors, give reaſon to ſuſpect he may have falſified one, that few proteſtants read, if it ſerved to his purpoſe; and not mentioning the place, his fraud cannot eaſily be diſcovered, unleſs it be by one who has leiſure to examine all his vaſtly voluminous writings. But as to the point in queſtion, that pains may be ſaved; there is nothing that can be imputed to the invention of Suarez; for, " that Adam had only an oeconomical, not a political power," is not the voice of a jeſuit, but of nature and common ſenſe: for politic ſignifying no more in Greek, than civil in Latin, it is evident there could be no civil power, where there was no civil

ſociety; and there could be none between him and his children, becauſe a civil ſociety is compoſed of equals, and fortified by mutual compacts, which could not be between him and his children; at leaſt, if there be any thing of truth in our author's doctrine, "that "all children do perpetually and abſolutely depend upon the will of "their father." Suarez ſeems to have been of another opinion; and obſerving the benefits we receive from parents, and the veneration we owe to them to be reciprocal, he could not think any duty could extend farther than the knowledge of the relation upon which it was grounded; and makes a difference between the power of a father, before and after his children are made free; that is in truth, before and after they are able to provide for themſelves, and to deliver their parents from the burden of taking care of them: which will appear rational to any who are able to diſtinguiſh between what a man of fifty years old, ſubſiſting by himſelf, and having a family of his own, or a child of eight, doth owe to his father: the ſame reaſon that obliges a child to ſubmit intirely to the will of his parents, when he is utterly ignorant of all things, does permit, and often injoin, men of ripe age to examine the commands they receive before they obey them; and it is not more plain, that I owe all manner of duty, affection, and reſpect, to him that did beget and educate me, than that I can owe nothing on any ſuch account to one that did neither.

This may have been the opinion of Suarez: but I can hardly believe ſuch a notion, as, "that Adam in proceſs of time might have "ſervants," could proceed from any other brain than our author's; for if he had lived to this day, he could have had none under him but his own children; and if a family be not complete without ſervants, his muſt always have been defective; and his kingdom muſt have been ſo too, if that has ſuch a reſemblance to a family as our author fanſies. This is evident, that a hard father may uſe his children as ſervants, or a rebellious ſtubborn ſon may deſerve to be ſo uſed; and a gentle and good maſter may ſhew that kindneſs to faithful and well-deſerving ſervants, which reſembles the ſweetneſs of a fatherly rule: but neither of them can change their nature; a ſon can never grow to be a ſervant, nor a ſervant to be a ſon. If a family therefore be not complete, unleſs it conſiſt of children and ſervants, it cannot be like to a kingdom or city, which is compoſed of freemen and equals: ſervants may be in it, but are not members of it. As truth can never be repugnant to juſtice, it is impoſſible this ſhould be a prejudice to the paternal rule, which is moſt juſt; eſpecially when a grateful remembrance of the benefits received doth ſtill remain, with a neceſſary and perpetual obligation of repaying them in all affection and duty: whereas the care of ever providing for their families, as they did probably increaſe in the time of our firſt long-living fathers, would have been an inſupportable burden to parents, if it had been incumbent on them. We do not find that Adam exerciſed any ſuch power over Cain, when he had ſlain Abel, as our author fanſies to be regal: the murderer went out, and built a city for himſelf, and called it by the name of his firſt-born. And we have not the leaſt reaſon to believe, that after Adam's death Cain had any dominion over his brethren, or their poſterity; or any one of them

over

over him and his. He feared that whoſoever ſaw him would kill him, which language does not agree with the rights belonging to the haughty title of heir apparent to the dominion of the whole earth. The like was practiſed by Noah and his ſons, who ſet up colonies for themſelves; but lived as private men in obſcure places, whilſt their children of the fourth or fifth generation, eſpecially of the youngeſt and accurſed ſon, were great and powerful kings, as is fully proved in the firſt chapter. SECT. 2.

Tho' this had been otherwiſe, it would have no effect upon us; for no argument drawn from the examples of Shem, Ham, and Japhet, if they and their children had continued under the dominion of Noah as long as he lived, can oblige me to reſign myſelf, and all my concernments, abſolutely into the hands of one who is not my father. But when the contrary is evidently true in them, and their next enſuing generations, it is an admirable boldneſs in our author to think of impoſing upon us for an eternal and univerſal law (when the knowledge of our firſt progenitors is utterly extinguiſhed) that which was not at all regarded by thoſe, who could not be ignorant of their own original, or the duty thereby incumbent upon them, or their immediate fathers then living, to whom the rights muſt have belonged, if there had been any ſuch thing in nature, or that they had been of any advantage to them: whereas in truth, if there had been ſuch a law in the beginning, it muſt have vaniſhed of itſelf, for want of being exerciſed in the beginning, and could not poſſibly be revived after four thouſand years, when no man in the world can poſſibly know to whom the univerſal right of dominion over the whole world, or particular nations, does belong; for it is in vain to ſpeak of a right, when no one man can have a better title to it than any other. But there being no precept in the ſcripture for it, and the examples directed or approved by God himſelf, and his moſt faithful ſervants, being inconſiſtent with, and contrary to it, we may be ſure there never was any ſuch thing; and that men being left to the free uſe of their own underſtanding, may order and diſpoſe of their own affairs as they think fit. No man can have a better title than another, unleſs for his perſonal virtues; every man that in the judgment of thoſe concerned excels in them, may be advanced: and thoſe nations that through miſtake ſet up ſuch as are unworthy, or do not take right meaſures in providing for a ſucceſſion of men worthy, and other things neceſſary to their welfare, may be guilty of great folly, to their own ſhame and miſery; but can do no injuſtice to any, in relation to an hereditary right, which can be naturally in none.

SECT.

SECT. III.

Government is not inſtituted for the good of the governor, but of the governed; and power is not an advantage, but a burden.

THE follies with which our author endeavours to corrupt and trouble the world, ſeem to proceed from his fundamental miſtakes of the ends for which governments are conſtituted; and from an opinion, that an exceſſive power is good for the governor, or the diminution of it a prejudice: whereas common ſenſe teaches, and all good men acknowlege, that governments are not ſet up for the advantage, profit, pleaſure, or glory of one or a few men, but for the good of the ſociety. For this reaſon Plato and Ariſtotle find no more certain way of diſtinguiſhing between a lawful king and a tyrant, than that the firſt ſeeks to procure the common good, and the other his own pleaſure or profit; and doubt not to declare, that he who according to his inſtitution was the firſt, deſtroys his own being, and degenerates into the latter, if he deflect from that rule: he that was the beſt of men, becomes the worſt; and the father or ſhepherd of the people makes himſelf their enemy. And we may from hence collect, that in all controverſies concerning the power of magiſtrates, we are not to examine what conduces to their profit or glory, but what is good for the public.

His ſecond error is no leſs groſs and miſchievous than the firſt; and that abſolute power to which he would exalt the chief magiſtrate, would be burdenſome, and deſperately dangerous, if he had it. The higheſt places are always ſlippery: mens eyes dazle when they are carried up to them; and all falls from them are mortal. Few kings or tyrants, ſays * Juvenal, go down to the grave in peace; and he did not imprudently couple them together, becauſe in his time few or no kings were known who were not tyrants. Dionyſius thought no man left a tyranny, till he was drawn out by the heels. But Tacitus ſays, "neſcit quam grave & intolerandum ſit "cuncta regendi onus †." Moſes could not bear it: Gideon would not accept of any reſemblance of it. The moral ſenſe of Jotham's wiſe parable is eternal: the bramble coveted the power, which the vine, olive, and fig-tree refuſed. The worſt and baſeſt of men are ambitious of the higheſt places, which the beſt and wiſeſt reject; or if ſome, who may be otherwiſe well qualified——

Ann. l. i. 11.

[In this place two pages are wanting in the original manuſcript.]

———as the fitteſt to be followed by mankind. If theſe philoſophers and divines deſerve credit, Nimrod, Ninus, Pharaoh, and the reſt of that accurſed crew, did not commit ſuch exceſſes as were condemned

*———Sine cæde & ſanguine pauci
Deſcendunt reges, & ſicca morte tyranni. Juven. Sat. x. l. 112.

† It is ſomewhat different in Tacitus. Tiberius, after Auguſtus's death, ſays in his ſpeech to the ſenate, "Se——experiendo didiciſſe, quam arduum, quam ſubjectum for-"tunæ, regendi cuncta onus."

demned by God, and abhorred by good men; but, gaining to themſelves the glorious character of his vicegerents, left their practices as a perpetual law to all ſucceeding generations; whereby the world, and every part of it, would be for ever expoſed to the violence, cruelty, and madneſs, of the moſt wicked men that it ſhould produce. But if theſe opinions comprehend an extravagancy of wickedneſs and madneſs, that was not known among men, till ſome of theſe wretches preſumed to attempt the increaſe of that corruption under which mankind groans, by adding fuel to the worſt of all vices; we may ſafely return to our propoſitions, that, God having eſtabliſhed no ſuch authority as our author fanſies, nations are left to the uſe of their own judgment, in making proviſion for their own welfare; that there is no lawful magiſtrate over any of them, but ſuch as they have ſet up; that in creating them, they do not ſeek the advantage of their magiſtrate, but their own: and, having found that an abſolute power over the people is a burden, which no man can bear; and that no wiſe or good man ever deſired it; from thence conclude, that it is not good for any to have it, nor juſt for any to affect it, tho' it were perſonally good for himſelf; becauſe he is not exalted to ſeek his own good, but that of the public. SECT. 4.

SECT. IV.

The paternal right devolves to, and is inherited by, all the children.

THO' the perverſity of our author's judgment and nature may have driven him into the moſt groſs errors, it is not amiſs to obſerve, that many of thoſe delivered by him proceed from his ignorance of the moſt important differences between father and lord, king and tyrant; which are ſo evident and irreconcileable, that one would have thought no man could be ſo ſtupid as not to ſee it impoſſible for one and the ſame man, at the ſame time, to be father and maſter, king and tyrant, over the ſame perſons. But leſt he ſhould think me too ſcrupulous, or too ſtrict in inquiring after truth, I intend for the preſent to wave that inquiry, and to ſeek what was good for Adam and Noah; what we have reaſon to believe they deſired to tranſmit to their poſterity, and to take it for a perpetual law in its utmoſt extent; which I think will be of no advantage to our author: for this authority, which was univerſal during their lives, muſt neceſſarily, after their deceaſe, be divided, as an inheritance, into as many parcels as they had children. The apoſtle ſays, "If children, then heirs, heirs of God, and joint-heirs with Chriſt;" which, alluding to the laws and cuſtoms of nations, could have been of no force, unleſs it had been true and known to be ſo. But if children are heirs, or joint-heirs, whatſoever authority Adam or Noah had, is inherited by every man in the world; and that title of heir which our author ſo much magnifies, as if it were annexed to one ſingle perſon, vaniſhes into nothing: or elſe the words of Rom. viii. 19.

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the apoſtle could have neither ſtrength nor truth in them, but would be built upon a falſe foundation, which may perhaps agree with our author's divinity.

Yet, if the apoſtle had not declared himſelf ſo fully in this point, we might eaſily have ſeen, that Adam and Noah did leave their children in that equality; for fathers are ever underſtood to embrace all their children with equal affection, till the diſcovery of perſonal virtues and vices makes a difference. But the perſonal virtues, that give a reaſonable preference of one before another, or make him more fit to govern than the others, cannot appear before he is, nor can be annexed to any one line: therefore the father cannot be thought to have given to one man, or his deſcendents, the government of his brethren and their deſcendents.

Beſides, tho' the law of England may make one man to be ſole heir of his father, yet the laws of God and nature do not ſo. All the children of Noah were his heirs: the land promiſed to Abraham, Iſaac, and Jacob, was equally divided among their children. If the children of Joſeph made two tribes, it was not as the firſt-born, but by the will of Jacob, who adopted Ephraim and Manaſſeh; and they thereby became his ſons, and obtained an inheritance equal to that of the other tribes. The law allowed a double portion to the firſt-begotten; but this made a difference between the brothers only in proportion, whereas that between lord and ſervant is in ſpecie, not in degree. And if our author's opinion might take place, inſtead of ſuch a diviſion of the common inheritance between brothers, as was made between the children of Jacob, all muſt continue for ever ſlaves to one lord; which would eſtabliſh a difference in ſpecie between brethren, which nature abhors.

If nature does not make one man lord over his brethren, he can never come to be their lord, unleſs they make him ſo, or he ſubdue them. If he ſubdue them, it is an act of violence contrary to right, which may conſequently be recovered: if they make him lord, it is for their own ſakes, not for his; and he muſt ſeek their good, not his own, leſt, as Ariſtotle ſays, he degenerate from a king into a tyrant. He therefore who would perſuade us, that the dominion over every nation does naturally belong to one man, woman, or child, at a venture; or to the heir, whatſoever he or ſhe be, as to age, ſex, or other qualifications; muſt prove it good for all nations to be under them. But as reaſon is our nature, that can never be natural to us that is not rational. Reaſon gives "paria pari-"bus," equal power to thoſe who have equal abilities and merit: it allots to every one the part he is moſt fit to perform; and this fitneſs muſt be equally laſting with the law that allots it. But as it can never be good for great nations, having men amongſt them of virtue, experience, wiſdom, and goodneſs, to be governed by children, fools, or vicious and wicked perſons; and we neither find, that the virtues required in ſuch as deſerve to govern them, did ever continue in any race of men, nor have reaſon to believe they ever will; it can never be reaſonable to annex the dominion of a nation to any one line. We may take this upon Solomon's word, "Wo to "thee, O land, when thy king is a child, and thy princes eat in the "morning!"

Eccl. x. 16.

" morning!" and I wiſh the experience of all ages did not make this truth too evident to us. This therefore can never be the work, much leſs the law, of nature; and if there be any ſuch thing in the world, as the dominion over a nation inſeparably united to a man and his family, it can have no other root, than a civil or municipal law, which is not the ſubject of our diſcourſe. SECT. 4.

Moreover, every father's right muſt ceaſe, when he ceaſes to be; or be tranſmitted to thoſe, who, being alſo fathers, have the ſame title to it. And tho' the contrary method of annexing the whole inheritance to one perſon, or expoſing all his brethren to be deſtroyed by his rage, if they will not ſubmit, may conduce to the enlargement of a proud and violent empire, as in Turky; where he that gains the power, uſually begins his reign with the ſlaughter of his brothers and nephews; yet it can never agree with the piety, gentleneſs, and wiſdom, of the patriarchs, or the laws of God and nature.

Theſe things being agreed, we need not trouble ourſelves with the limits or definition of a family, and as little with the titles given to the head of it: it is all one to us, whether it be confined to one roof and fire, or extended farther; and none but ſuch as are ſtrangers to the practice of mankind, can think that titles of civility have a power to create a right of dominion. Every man in Latin is called " dominus," unleſs ſuch as are of the vileſt condition, or in a great ſubjection to thoſe who ſpeak to them; and yet the word, ſtrictly taken, relates only to " ſervus;" for a man is lord only of his ſervant or ſlave. The Italians are not leſs liberal of the titles of " ſignore" and " padrone," and the Spaniards of " ſennor:" but he would be ridiculous in thoſe countries, who thereupon ſhould arrogate to himſelf a right of dominion over thoſe who are ſo civil. The vanity of our age ſeems to carry this point a little higher, eſpecially among the French, who put a great weight upon the word " prince;" but they cannot change the true ſignification of it; and even in their ſenſe, " prince du ſang" ſignifies no more than a chief man of the royal blood, to whom they pay much reſpect, becauſe he may come to the crown; as they at Rome do to cardinals, who have the power of chuſing popes, and out of whoſe number, for ſome ages, they have been choſen. In this ſenſe did Scevola, when he was apprehended by Porſenna, ſay, " Trecenti conjuravimus Romanæ juventutis principes;" which was never otherwiſe underſtood, than of ſuch young citizens as were remarkable amongſt their companions. And nothing can be more abſurd than to think, if the name of prince had carried an abſolute and deſpotical power with it, that it could belong to three hundred in a city, that poſſeſſed no more than a ten miles territory; or that it could have been given to them, whilſt they were young, and the moſt part of their fathers, as is moſt probable, ſtill living. T. Liv. l. ii.

I ſhould, like our author, run round in a circle, if I ſhould refute what he ſays of a regal power in our firſt parents; or ſhew that the regal, where it is, is not abſolute, as often as he does aſſert it. But, having already proved, that Adam, Noah, Abraham, Iſaac, Jacob, &c. enjoyed no ſuch power; tranſmitted to every one of their

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their ſons that which they had; and they became fathers of many great nations, who always continued independent on each other; I leave to our author to prove, when, and by what law, the right of ſubdividing the paternal power was ſtopped; and how any one or more of their deſcendents came to have that power over their brethren, which none of their immediate children had over theirs.

His queſtion to Suarez, how and when ſons become free, ſavours more of jeſuitical ſophiſtry, than any thing ſaid by the jeſuit; but the ſolution is eaſy: for if he mean the reſpect, veneration, and kindneſs proceeding from gratitude, it ceaſes only with the life of the father to whom it is due, and the memory of it muſt laſt as long as that of the ſon; and, if they had been poſſeſſed of ſuch an abſolute power as he fanſies, it muſt have ceaſed with the reaſons upon which it was grounded.

Firſt, becauſe the power, of which a father would probably have made a wiſe and gentle uſe, could not be rightly truſted in the hands of one who is not a father; and that which tended only to the preſervation of all the children, could not be turned to the increaſe of the pride, luxury, and violence of one, to the oppreſſion of others, who are equally heirs.

In the ſecond place, ſocieties cannot be inſtituted, unleſs the heads of the families that are to compoſe them, reſign ſo much of their right, as ſeems convenient, into the public ſtock, to which every one becomes ſubject: but that the ſame power ſhould, at the ſame time, continue in the true father, and the figurative father, the magiſtrate; and that the children ſhould owe intire obedience to the commands of both, which may often croſs each other; is abſurd.

Thirdly, it ceaſes when it cannot be executed; as when men live to ſee four or five generations, as many do at this day; becauſe the ſon cannot tell whether he ſhall obey his father, grandfather, or great-grandfather, and cannot be equally ſubject to them all; moſt eſpecially, when they live in divers places, and ſet up families of their own, as the ſons of the patriarchs did: which being obſerved, I know no place where this paternal power could have any effect, unleſs in the fabulous iſland of Pines; and even there it muſt have ceaſed, when he died, who, by the inventor of the ſtory, is ſaid to have ſeen above ten thouſand perſons iſſued of his body.

And if it be ſaid, that Noah, Shem, Abraham, &c. conſented that their children ſhould go where they thought fit, and provide for themſelves; I anſwer, that the like has been done in all ages, and muſt be done for ever. It is the voice of nature, obeyed, not only by mankind, but by all living creatures; and there is none ſo ſtupid as not to underſtand it. A hen leaves her chickens, when they can ſeek their own nouriſhment: a cow looks after her calf no longer, than till it is able to feed: a lion gives over hunting for his whelps, when they are able to ſeek their own prey, and have ſtrength enough to provide what is ſufficient for themſelves. And the contrary would be an inſupportable burden to all living creatures, but eſpecially to men; for the good order that the rational

rational nature delights in, would be overthrown, and civil ſocieties, by which it is beſt preſerved, would never be eſtabliſhed. SECT. 5.

We are not concerned to examine, whether the political and oeconomical powers be intirely the ſame, or in what they differ: for that abſolute power which he contends for, is purely deſpotical, different from both, or rather inconſiſtent with either as to the ſame ſubject; and that which the patriarchs exerciſed, having been equally inherited by their children, and conſequently by every one of their poſterity, it is as much as is required for my purpoſe of proving the natural univerſal liberty of mankind; and I am no way concerned in the queſtion, Whether the firſt parents of mankind had a power of life and death over their children, or not.

SECT. V.

Freemen join together, and frame greater or leſſer ſocieties, and give ſuch forms to them as beſt pleaſe themſelves.

THIS being eſtabliſhed, I ſhall leave Filmer to fight againſt Suarez or Bellarmine; or to turn one of them againſt the other, without any concernment in the combat, or the ſucceſs of it. But ſince he thereupon raiſes a queſtion, "Whether the ſupreme power "be ſo in the people, that there is but one and the ſame power in "all the people of the world; ſo that no power can be granted, un-"leſs all men upon the earth meet, and agree to chuſe a governor;" I think it deſerves to be anſwered, and might do it by propoſing a queſtion to him; Whether in his opinion, the empire of the whole world doth, by the laws of God and nature, belong to one man, and who that man is? Or, how it came ſo to be divided, as we have ever known it to have been, without ſuch an injury to the univerſal monarch, as can never be repaired? But intending to proceed more candidly, and not to trouble myſelf with Bellarmine or Suarez, I ſay, that they who place the power in a multitude, underſtand a multitude compoſed of freemen, who think it for their convenience to join together, and to eſtabliſh ſuch laws and rules as they oblige themſelves to obſerve: which multitude, whether it be great or ſmall, has the ſame right, becauſe ten men are as free as ten millions of men; and tho' it may be more prudent in ſome caſes to join with the greater than the ſmaller number, becauſe there is more ſtrength, it is not ſo always: but however every man muſt therein be his own judge, ſince if he miſtake, the hurt is only to himſelf; and the ten may as juſtly reſolve to live together, frame a civil ſociety, and oblige themſelves to laws, as the greateſt number of men that ever met together in the world.

Thus we find that a few men aſſembling together upon the banks of the Tiber, reſolved to build a city, and ſet up a government among themſelves: and the multitude that met at Babylon, when their deſign of building a tower that ſhould reach up to heaven failed, and their language was confounded, divided themſelves, as

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our author ſays, into ſeventy-two parcels, and by the ſame right might have divided into more, as their deſcendents did into almoſt an infinite number before the death of their common father Noah. But we cannot find a more perfect picture of freemen, living according to their own will, than in Abraham and Lot; they went together into Canaan, continued together as long as was convenient for them, and parted when their ſubſtance did ſo increaſe, that they became troubleſome to each other. In the like manner Iſhmael, Iſaac, and Abraham's ſix ſons by Keturah, might have continued together, and made one nation; Iſaac and Eſau, Moab and Ammon, might have done ſo too; or all of them that came of the ſame ſtock might have united together; but they did not; and their deſcendents by the ſame rule might have ſubdivided perpetually, if they had thought it expedient for themſelves: and if the ſons of Jacob did not do the like, it is probable they were kept together by the hope of an inheritance promiſed to them by God, in which we find no ſhadow of a deſpotical dominion, affected by one as father or heir to the firſt father, or reputed to be the heir; but all continued in that fraternal equality, which according to Abraham's words to Lot they ought to do. There was no lord, ſlave or vaſſal; no ſtrife was to be among them: they were brethren; they might live together, or ſeparate, as they found it convenient for themſelves. By the ſame law that Abraham and Lot, Moab and Ammon, Iſhmael, Iſaac, and the ſons of Keturah, Jacob, Eſau, and their deſcendents, did divide, and ſet up ſeveral governments, every one of their children might have done the like: and the ſame right remained to their iſſue, till they had by agreement engaged themſelves to each other. But if they had no dependence upon each other, and might live together in that fraternal equality which was between Abraham and Lot; or ſeparate, and continue in that ſeparation, or reunite; they could not but have a right of framing ſuch conditions of their reunion as beſt pleaſed themſelves. By this means every number of men, agreeing together, and framing a ſociety, became a complete body, having all power in themſelves over themſelves, ſubject to no other human law than their own. All thoſe that compoſe the ſociety, being equally free to enter into it or not, no man could have any prerogative above others, unleſs it were granted by the conſent of the whole; and nothing obliging them to enter into this ſociety, but the conſideration of their own good; that good, or the opinion of it, muſt have been the rule, motive, and end, of all that they did ordain. It is lawful therefore for any ſuch bodies to ſet up one, or a few men, to govern them, or to retain the power in themſelves; and he or they who are ſet up, having no other power but what is ſo conferred upon them by that multitude, whether great or ſmall, are truly by them made what they are; and by the law of their own creation, are to exerciſe thoſe powers according to the proportion, and to the ends, for which they were given.

Gen. xiii.

Theſe rights, in ſeveral nations and ages, have been variouſly executed in the eſtabliſhment of monarchies, ariſtocracies, democracies, or mixed governments, according to the variety of circumſtances; and the governments have been good or evil, according to the

the rectitude or pravity of their inſtitution, and the virtue and wiſdom, or the folly and vices of thoſe to whom the power was committed: but the end which was ever propoſed, being the good of the public, they only performed their duty, who procured it according to the laws of the ſociety, which were equally valid as to their own magiſtrates, whether they were few or many. SECT. 5.

This might ſuffice to anſwer our author's queſtion; but he endeavours further to perplex it, by a fiction of his own brain, "That "God gave this power to the whole multitude met, and not to every "particular aſſembly of men:" and expects a proof, "That the "whole multitude met, and divided this power which God gave them "in groſs, by breaking it into parcels, and by appointing a diſtinct "power to each commonwealth." He alſo fathers it upon the aſſertors of liberty; "and does not ſee," as he ſays, "how there can be "an election of a magiſtrate by any commonwealth, that is not an "uſurpation upon the privilege of the whole world, unleſs all mankind had met together and divided the power into parcels which "God had given them in groſs." But before I put myſelf to the trouble of anſwering that which is but an appendix to a whimſy of his own, I may juſtly aſk, what hurt he finds in uſurpation, who aſſerts, that the ſame obedience is due to all monarchs, whether they come in by inheritance, election or uſurpation? If uſurpation can give a right to a monarch, why does it not confer the ſame upon a people? or rather, if God did in groſs confer ſuch a right upon all mankind, and they neither did nor can meet together by conſent to diſpoſe of it for the good of the whole; why ſhould not thoſe who can and do conſent to meet together, agree upon that which ſeems moſt expedient to them for the government of themſelves? Did God create man under the neceſſity of wanting government, and all the good that proceeds from it; becauſe at the firſt all did not, and afterwards all could not meet to agree upon rules? Or did he ever declare, that unleſs they ſhould uſe the firſt opportunity of dividing themſelves into ſuch parcels as were to remain unalterable, the right of reigning over every one ſhall fall to the firſt villain that ſhould dare to attempt it? Is it not more conſonant to the wiſdom and goodneſs of God, to leave to every nation a liberty of repairing the miſchiefs fallen upon them through the omiſſion of their firſt parents, by ſetting up governments among themſelves, than to lay them under a neceſſity of ſubmitting to any that ſhould inſolently aſpire to a domination over them? Is it not more juſt and reaſonable to believe, that the univerſal right not being executed, devolves upon particular nations, as members of the great body, than that it ſhould become the reward of violence or fraud? Or is it poſſible that any one man can make himſelf lord of a people, or parcel of that body, to whom God had given the liberty of governing themſelves, by any other means than violence or fraud, unleſs they did willingly ſubmit to him? If this right be not devolved upon any one man, is not the invaſion of it the moſt outrageous injury that can be done to all mankind, and moſt particularly to the nation that is enſlaved by it? Or if the juſtice of every government depends neceſſarily upon an original grant, and a ſucceſſion certainly deduced

CHAP. II. from our firſt fathers, does not he by his own principles condemn all the monarchies of the world, as the moſt deteſtable uſurpations, ſince not one of them that we know do any way pretend to it? Or, tho' I, who deny any power to be juſt that is not founded upon conſent, may boldly blame uſurpation, is it not an abſurd and unpardonable impudence in Filmer, to condemn uſurpation in a people, when he has declared that the right and power of a father may be gained by uſurpation; and that nations in their obedience are to regard the power, not the means by which it was gained? But not to loſe more time upon a moſt frivolous fiction, I affirm, that the liberty which we contend for is granted by God to every man in his own perſon, in ſuch a manner as may be uſeful to him and his poſterity, and as it was exerciſed by Noah, Shem, Abraham, Iſaac, Jacob, &c. and their children, as has been proved, and not to the vaſt body of all mankind, which never did meet together ſince the firſt age after the flood, and never could meet to receive any benefit by it.

His next queſtion deſerves ſcorn and hatred, with all the effects of either, if it proceed from malice; tho' perhaps he may deſerve compaſſion, if his crime proceed from ignorance. "Was a general "meeting of a whole kingdom," ſays he, "ever known for the "election of a prince?" But if there never were any general meetings of whole nations, or of ſuch as they did delegate and entruſt with the power of the whole, how did any man that was elected come to have a power over the whole? Why may not a people meet to chuſe a prince, as well as any other magiſtrate? Why might not the Athenians, Romans, or Carthaginians, have choſen princes as well as archons, conſuls, dictators, or ſuffetes, if it had pleaſed them? Who choſe all the Roman kings, except Tarquin the Proud, if the people did not; ſince their hiſtories teſtify, that he was the firſt who took upon him to reign "ſine juſſu populi?" Who ever heard of a king of the Goths in Spain, that was not choſen by the nobility and people? Or, how could they chuſe him, if they did not meet in their perſons, or by their deputies, which is the ſame thing, when a people has agreed it ſhould be ſo? How did the kings of Sweden come by their power, unleſs by the like election, till the crown was made hereditary, in the time of Guſtavus the Firſt, as a reward of his virtue and ſervice in delivering that country from the tyranny of the Danes? How did Charles Guſtavus come to be king, unleſs it was by the election of the nobility? He acknowledged by the act of his election, and upon all occaſions, that he had no other right to the crown than what they had conferred on him. Did not the like cuſtom prevail in Hungary and Bohemia, till thoſe countries fell under the power of the houſe of Auſtria? and in Denmark till the Year 1660? Do not the kings of Poland derive their authority from this popular election, which he derides? Does not the ſtile of the oath of allegiance uſed in the kingdom of Arragon, as it is related by Antonio Perez ſecretary of ſtate to Philip II. ſhew, that their kings were of their own making? Could they ſay, * "We who are as "good

T. Liv. l. i.

* Nos que valemos tanto come vos, os hazemos nueſtro rey, con tal que nos guardeys nueſtros fueros y libertades, y ſino, no. Relacion. de Ant. Perez.

" good as you, make you our king, on condition that you keep and ob- SECT. 5.
" ſerve our privileges and liberties; and if not, not;" if he did not come in by their election? Were not the Roman emperors in diſorderly times choſen by the ſoldiers; and in ſuch as were more regular, by the ſenate with the conſent of the people?

Our author may ſay, the whole body of theſe nations did not meet at their elections; tho' that is not always true: for in the infancy of Rome, when the whole people dwelt within the walls of a ſmall city, they did meet for the choice of their kings, as afterwards for the choice of other magiſtrates. Whilſt the Goths, Franks, Vandals, and Saxons, lived within the precincts of a camp, they frequently met for the election of a king, and raiſed upon a target the perſon they had choſen: but, finding that to be inconvenient, or rather impoſſible, when they were vaſtly increaſed in number, and diſperſed over all the countries they had conquered, no better way was found, than to inſtitute " gemotes, parliaments, diets, cortez, " aſſemblies of eſtates," or the like, to do that which formerly had been performed by themſelves; and when a people is, by mutual compact, joined together in a civil ſociety, there is no difference, as to right, between that which is done by them all in their own perſons, or by ſome deputed by all, and acting according to the powers received from all.

If our author was ignorant of theſe things, which are the moſt common in all hiſtories, he might have ſpared the pains of writing upon more abſtruſe points; but it is a ſtupendous folly in him, to preſume to raiſe doctrines depending upon the univerſal law of God and nature, without examining the only law that ever God did, in a public manner, give to man. If he had looked into it, he might have learnt, that all Iſrael was, by the command of God, 1 Sam. x. aſſembled at Mizpeth to chuſe a king, and did chuſe Saul: he being ſlain, all Judah came to Hebron, and made David their king: after 2 Sam. ii. the death of Iſhboſheth, all the tribes went to Hebron, and anointed 2 Sam. v. him king over them, and he made a covenant with them before the Lord. When Solomon was dead, all Iſrael met together in Sechem; and ten tribes, diſliking the proceedings of Rehoboam, re- 1 King. xii. jected him, and made Jeroboam their king. The ſame people in the time of the judges, had general aſſemblies, as often as occaſion did require, to ſet up a judge, to make war or the like: and the ſeveral tribes had their aſſemblies to treat of buſineſſes relating to themſelves. The hiſtories of all nations, eſpecially of thoſe that have peopled the beſt parts of Europe, are ſo full of examples in this kind, that no man can queſtion them, unleſs he be brutally ignorant, or maliciouſly contentious. The great matters among the Germans were tranſacted " omnium conſenſu. De minoribus conſultant principes; de C. Tacit. de " majoribus omnes." The " michelgemote" among the Saxons was an mor. Germ. aſſembly of the whole people: the " baronagium" is truly ſaid to be the ſame, in as much as it comprehended all the freemen, that is, all the people; for the difference between " civis" and " ſervus" is irreconcileable; and no man, whilſt he is a ſervant, can be a member of a commonwealth; for he that is not in his own power, cannot have a part in the government of others. All the fore-mentioned northern

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nations had the like cuſtoms among them: the governments they had were ſo inſtituted. The utmoſt that any now remaining pretends to, is, to derive their right from them: if, according to Filmer, theſe firſt aſſemblies could not confer it upon the firſt, they had none: ſuch as claim under them, can inherit none from thoſe that had none; and there can be no right in all the governments we ſo much venerate; and nothing can tend more to their overthrow than the reception of our author's doctrine.

Tho' any one inſtance would be ſufficient to overthrow his general negative propoſition (for a rule is not generally true, if there be any juſt exception againſt it) I have alledged many, and find it ſo eaſy to increaſe the number, that there is no nation, whoſe original we know, out of whoſe hiſtories I will not undertake to produce the like: but I have not been ſolicitous preciſely to diſtinguiſh, which nations have acted in their own perſons, and which have made uſe of delegates; nor in what times they have changed from one way to the other; for, if any have acted by themſelves, the thing is poſſible; and whatſoever is done by delegated powers, muſt be referred to their principals; for none can give to any a power which they have not in themſelves.

He is graciouſly pleaſed to confeſs, that "when men are aſſembled "by a humane power, that power that doth aſſemble them, may alſo li- "mit the manner of the execution of that power, &c. But in aſſemblies "that take their authority from the law of nature, it is not ſo; for what "liberty or freedom is due to any man by the law of nature, no inferior "power can alter, limit, or diminiſh: no one man, or multitude of "men, can give away the natural right of another, &c." Theſe are ſtrong lines, and ſuch as, if there be any ſenſe in them, utterly overthrow all our author's doctrine; for if any aſſembly of men did ever take their authority from the law of nature, it muſt be of ſuch as, remaining in the intire fruition of their natural liberty, and reſtrained by no contract, meet together to deliberate of ſuch matters as concern themſelves; and if they can be reſtrained by no one man, or number of men, they may diſpoſe of their own affairs as they think fit. But becauſe no one of them is obliged to enter into the ſociety that the reſt may conſtitute, he cannot enjoy the benefit of that ſociety unleſs he enter into it: he may be gone, and ſet up for himſelf, or ſet up another with ſuch as will agree with him. But if he enter into the ſociety, he is obliged by the laws of it; and if one of thoſe laws be, that all things ſhould be determined by the plurality of voices, his aſſent is afterwards comprehended in all the reſolutions of that plurality. Reuben or Simeon might, according to the laws of nature, have divided themſelves from their brethren, as well as Lot from Abraham, or Iſhmael and the ſons of Keturah from Iſaac; but when they, in hopes of having a part in the inheritance promiſed to their fathers, had joined with their brethren, a few of their deſcendents could not have a right, by their diſſent, to hinder the reſolutions of the whole body, or ſuch a part of it as by the firſt agreement was to paſs for an act of the whole.

1 Sam. x. And the ſcripture teaches us, that when the lot was fallen upon Saul, they who deſpiſed him were ſtiled "men of Belial;" and the reſt, after

after his victory over the Ammonites, would have ſlain them, if he had permitted. In the like manner, when a number of men met together to build Rome, any man who had diſliked the deſign, might juſtly have refuſed to join in it; but when he had entered into the ſociety, he could not by his vote invalidate the acts of the whole, nor deſtroy the rights of Romulus, Numa, and the others, who by the ſenate and people were made kings; nor thoſe of the other magiſtrates, who after their expulſion were legally created. SECT. 5.

This is as much as is required to eſtabliſh the natural liberty of mankind in its utmoſt extent, and cannot be ſhaken by our author's ſurmiſe, "That a gap is thereby opened for every ſeditious multitude "to raiſe a new commonwealth:" for till the commonwealth be eſtabliſhed, no multitude can be ſeditious, becauſe they are not ſubject to any human law; and ſedition implies an unjuſt and diſorderly oppoſition of that power which is legally eſtabliſhed; which cannot be when there is none, nor by him who is not a member of the ſociety that makes it; and when it is made, ſuch as entered into it, are obliged to the laws of it.

This ſhewing the root and foundation of civil powers, we may judge of the uſe and extent of them, according to the letter of the law, or the true intentional meaning of it; both which declare them to be purely human ordinances, proceeding from the will of thoſe who ſeek their own good; and may certainly infer, that ſince all multitudes are compoſed of ſuch as are under ſome contract, or free from all, no man is obliged to enter into thoſe contracts againſt his own will, nor obliged by any to which he does not aſſent: thoſe multitudes that enter into ſuch contracts, and thereupon form civil ſocieties, act according to their own will: thoſe that are engaged in none, take their authority from the law of nature; their rights cannot be limited or diminiſhed by any one man, or number of men; and conſequently whoever does it, or attempts the doing of it, violates the moſt ſacred laws of God and nature.

His cavils concerning proxies, and the way of uſing them, deſerve no anſwer, as relating only to one ſort of men amongſt us, and can have no influence upon the laws of nature, or the proceedings of aſſemblies, acting according to ſuch rules as they ſet to themſelves. In ſome places they have voted all together in their own perſons, as in Athens: in others by tribes, as in Rome: ſometimes by delegates, when the number of the whole people is ſo great, that no one place can contain them, as in the parliaments, diets, general aſſemblies of eſtates, long uſed in the great kingdoms of Europe. In other parts many cities are joined together in leagues, as antiently the Achaians, Etolians, Samnites, Tuſcans; and in theſe times the ſtates of Holland, and cantons of Switzerland: but our author, not regarding ſuch matters, in purſuance of his folly, with an ignorance as admirable as his ſtupidity, repeats his challenge: "I aſk," ſays he, "but one ex-"ample out of the hiſtory of the whole world; let the common-"wealth be named, wherever the multitude, or ſo much as the "major part of it, conſented either by voice or procuration to the "election of a prince;" not obſerving, that if an anſwer could not be given, he did overthrow the rights of all the princes that are, or

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ever have been, in the world: for if the liberty of one man cannot be limited or diminiſhed by one, or any number of men, and none can give away the right of another, it is plain, that the ambition of one man, or of many, a faction of citizens, or the mutiny of an army, cannot give a right to any over the liberties of a whole nation. Thoſe who are ſo ſet up, have their root in violence or fraud, and are rather to be accounted robbers and pirates, than magiſtrates. Leo Africanus, obſerving in his hiſtory, that ſince the extinction of Mahomet's race (to whom his countrymen thought God had given the empire of the world) their princes did not come in by the conſent of thoſe nations which they governed, ſays, that they are eſteemed thieves; and that on this account, the moſt honourable men among the Arabians and Moors ſcorn to eat, drink, or make alliances with them: and if the caſe were as general as that author makes it, no better rule could be any-where followed by honourable and worthy men. But a good cauſe muſt not be loſt by the fault of an ill advocate; the rights of kings muſt not periſh, becauſe Filmer knows not how to defend, or does maliciouſly betray them. I have already proved that David, and divers of the judges, were choſen by all Iſrael; Jeroboam by ten tribes; all the kings of Rome, except Tarquin the Proud, by the whole city. I may add many examples of the Saxons in our own country: Ina and Offa were made kings "omnium conſenſu:" theſe all are expreſſed plainly by the words, "archiepiſcopis, epiſcopis, "abbatibus, ſenatoribus, ducibus, & populo terræ." Egbert and Ethelward came to the crown by the ſame authority, "Omnium conſenſu "rex creatur." Ethelwolf the monk, "neceſſitate cogente, factus eſt "rex, & conſenſus publicus in regem dari petiit." Ethelſtan, tho' a baſtard, "electus eſt magno conſenſu optimatum, et a populo con-"ſalutatus." In the like manner Edwin's government being diſliked, they choſe Edgar, "unanimi omnium conſpiratione, Edwino dejecto, "eligerunt, Deo dictante, Edgarum in regem, & annuente populo:" And in another place, "Edgarus ab omni Anglorum populo electus "eſt." Ironſide being dead, Canutus was received by the general conſent of all; "Juraverunt illi, quod eum regem ſibi eligere vellent: "fœdus etiam cum principibus & omni populo ipſe, & illi cum ipſo "percuſſerunt." Whereupon, "Omnium conſenſu ſuper totam "Angliam Canutus coronatur. Hardicanutus gaudenter ab omnibus "ſuſcipitur, & electus eſt." The ſame author ſays, that Edward the Confeſſor "electus eſt in regem ab omni populo:" and another, "Omnium electione in Edwardum concordatur." Tho' the name of "Conqueror" be odiouſly given to William the Norman, he had the ſame title to the crown with his predeceſſors: "In magna exultatione "a clero & populo ſuſceptus, & ab omnibus rex acclamatus." I cannot recite all the examples of this kind, that the hiſtory of almoſt all nations furniſhes, unleſs I ſhould make a volume in bulk not inferior to the book of martyrs: but thoſe which I have mentioned out of the ſacred, Roman, and Engliſh hiſtory, being more than ſufficient to anſwer our author's challenge, I take liberty to add, that tho' there could not be one example produced of a prince, or any other magiſtrate, choſen by the general conſent of the people, or by the major part of them, it could be of no advantage to the cauſe he has undertaken to maintain: for when a people

Leonis Afr. hiſt. Africæ.

Mat. Paris.

Guil. Malmſ. Polyd.

Polyd. Huntingd.

Mat. Weſt. Hoveden.

Florent.

Abbas Croyl. Huntingd.

Ingulf.

hath

hath either indefinitely, or under certain conditions and limitations, reſigned their power into the hands of a certain number of men; or agreed upon rules, according to which perſons ſhould, from time to time, be deputed for the management of their affairs; the acts of thoſe perſons, if their power be without reſtrictions, are of the ſame value as the acts of the whole nation, and the aſſent of every individual man is comprehended in them. If the power be limited, whatſoever is done according to that limitation, has the ſame authority. If it do therefore appear (as is teſtified by the laws and hiſtories of all our northern nations) that the power of every people is either wholly, or to ſuch a degree as is neceſſary for creating kings, granted to their ſeveral gemotes, diets, cortez, aſſemblies of eſtates, parliaments, and the like, all the kings that they have any-where, or at any time choſen, do reign by the ſame authority, and have the ſame right, as if every individual man of thoſe nations had aſſented to their election. But that theſe gemotes, diets, and other aſſemblies of ſtate, have every-where had ſuch powers, and executed them by rejecting or ſetting up kings; and that the kings now in being among us have received their beginning from ſuch acts, has been fully proved, and is ſo plain in itſelf, that none but thoſe who are groſly ſtupid or impudent can deny it: which is enough to ſhew that all kings are not ſet up by violence, deceit, faction of a few powerful men, or the mutinies of armies; but from the conſent of ſuch multitudes, as joining together, frame civil ſocieties; and either in their own perſons at general aſſemblies, or by their delegates, confer a juſt and legal power upon them; which our author rejecting, he does, as far as in him lies, prove them all to be uſurpers and tyrants. SECT. 6.

SECT. VI.

They who have a right of chuſing a king, have the right of making a king.

THO' the right of magiſtrates do eſſentially depend upon the conſent of thoſe they govern, it is hardly worth our pains to examine, "Whether the ſilent acceptation of a governor by part of the "people be an argument of their concurring in the election of him; "or by the ſame reaſon the tacit conſent of the whole common-"wealth may be maintained:" for when the queſtion is concerning right, fraudulent ſurmiſes are of no value; much leſs will it from thence follow, "that a prince commanding by ſucceſſion, conqueſt, "or uſurpation, may be ſaid to be elected by the people;" for evident marks of diſſent are often given: ſome declare their hatred; others murmur more privately; many oppoſe the governor or government, and ſucceed according to the meaſure of their ſtrength, virtue, or fortune. Many would reſiſt, but cannot; and it were ridiculous to ſay, that the inhabitants of Greece, the kingdom of Naples, or dutchy of Tuſcany, do tacitly aſſent to the government of the Great Turk, king of Spain, or duke of Florence; when nothing is more

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certain than that thoſe miſerable nations abhor the tyrannies they are under; and if they were not maſtered by a power that is much too great for them, they would ſoon free themſelves. And thoſe who are under ſuch governments do no more aſſent to them, tho' they may be ſilent, than a man approves of being robbed, when, without ſaying a word, he delivers his purſe to a thief that he knows to be too ſtrong for him.

It is not therefore the bare ſufferance of a government when a diſguſt is declared, nor a ſilent ſubmiſſion when the power of oppoſing is wanting, that can imply an aſſent or election, and create a right; but an explicit act of approbation, when men have ability and courage to reſiſt or deny. Which being agreed, it is evident that our author's diſtinction between "eligere" and "inſtituere" ſignifies nothing: tho', if the power of inſtituting were only left to nations, it would be ſufficient; for he is in vain elected who is not inſtituted; and he that is inſtituted is certainly elected; for his inſtitution is an election. As the Romans, who choſe Romulus, Numa, and Hoſtilius, to be kings, and Brutus, Valerius, or Lucretius, to be conſuls, did make them ſo, and their right was ſolely grounded upon their election. The text brought by our author againſt this doth fully prove it: "Him ſhalt thou ſet king over thee, whom the Lord ſhall "chuſe." For God did not only make the inſtitution of a king to be purely an act of the people, but left it to them to inſtitute one or not, as ſhould beſt pleaſe themſelves; and the words, "whom the Lord "ſhall chuſe," can have no other ſignification, than that the people reſolving to have a king, and following the rules preſcribed by his ſervant Moſes, he would direct them in their choice; which relates only to that particular people in covenant with God, and immediately under his government, which no other was. But this pains might have been ſaved, if God by a univerſal law had given a rule to all. The Iſraelites could not have been three hundred years without a king, and then left to the liberty of making one, or not, if he by a perpetual law had ordained, that every nation ſhould have one; and it had been as well impertinent as unjuſt to deliberate who ſhould be king, if the dominion had by right of inheritance belonged to one: they muſt have ſubmitted to him whether they would or not: no care was to be taken in the election or inſtitution of him, who by his birth had a right annexed to his perſon that could not be altered: he could not have been forbidden "to multiply ſilver or gold," who by the law of his creation might do what he pleaſed: it had been ridiculous to ſay, "he ſhould not raiſe his heart above his brethren," who had no brethren, that is, no equals; but was raiſed above all by God, who had impoſed upon all others a neceſſity of obeying him. But God, who does nothing in vain, did neither conſtitute or elect any till they deſired it, nor command them to do it themſelves, unleſs it ſo pleaſed themſelves; nor appoint them to take him out of any one line: every Iſraelite might be choſen: none but ſtrangers were excluded; and the people were left to the liberty of chuſing and inſtituting any one of their brethren.

Deut. xvii.

Our author, endeavouring by Hooker's authority to eſtabliſh his diſtinction between "eligere" and "inſtituere," deſtroys it, and the paternal

paternal right, which he makes the foundation of his doctrine. SECT. 6.
" Heaps of ſcripture are alledged," ſays he, " concerning the ſolemn
" coronation and inauguration of Saul, David, Solomon, and others,
" by nobles, antients, and people of the commonwealth of Iſrael :"
which is enough to prove that the whole work was theirs ; that no
other had any title more than what they beſtowed upon him : that
kings were ſet up by the nobles, antients, and people : even God did no
otherwiſe intervene than by ſuch a ſecret diſpoſition of the lots by his
providence, as is exerciſed in the government of all the things in the
world ; and we cannot have a more certain evidence, that a paternal
right to dominion is a mere whimſy, than that God did not cauſe the
lot to fall upon the eldeſt, of the eldeſt line, of the eldeſt tribe ; but
upon Saul, a young man, of the youngeſt tribe : and afterwards, tho'
he had deſigned David, Solomon, Jeroboam, and others, who had
no pretence to the paternal right to be kings, he left both the election
and inſtitution of them to the elders and people.

But Hooker being well examined, it will appear that his opinions
were as contrary to the doctrine of our author, as thoſe we have
mentioned out of Plato and Ariſtotle. He plainly ſays, " It is im- Hooker eccl.
" poſſible that any ſhould have a complete lawful power over a pol. l. i. c. 10.
" multitude conſiſting of ſo many families, as every politic ſociety
" doth, but by conſent of men, or immediate appointment from God :
" becauſe not having the natural ſuperiority of fathers, their power
" muſt needs be uſurped, and then unlawful ; or if lawful, then
" either granted or conſented unto by them over whom they exerciſe
" the ſame, or elſe given extraordinarily by God." And tho' he
thinks kings to have been the firſt governors ſo conſtituted, he adds,
" That this is not the only regiment that hath been received in the
" world. The inconveniences of one kind have cauſed ſundry others
" to be deviſed. So that in a word, all public regiment, of what
" kind ſoever, ſeemeth evidently to have riſen from deliberate advice,
" conſultation, and compoſition, between men, judging it convenient
" and behoofeful." And a little below, " Man's nature ſtanding
" therefore as it doth, ſome kind of regiment the law of nature doth
" require ; yet the kinds thereof being many, nature tieth not to
" any one, but leaveth the choice as a thing arbitrary." And again,
" To live by one man's will, became all men's miſery : this con-
" ſtrained them to come unto laws, &c. But as thoſe laws do not
" only teach that which is good, but enjoin it, they have in them a
" conſtraining force. To conſtrain men to any thing inconvenient
" ſeemeth unreaſonable : moſt requiſite therefore it is that to deviſe
" laws, which all men ſhould be forced to obey, none but wiſe men
" ſhould be admitted. Moreover, that which we ſay concerning the
" power of government muſt here be applied unto the power of
" making laws, whereby to govern ; which power God hath over
" all ; and by the natural law, whereunto he hath made all ſubject,
" the lawful power of making laws to command whole politic
" ſocieties of men belongeth ſo properly unto the ſame intire ſocieties,
" that for any prince or potentate, of what kind ſoever upon earth,
" to exerciſe the ſame of himſelf, and not either by expreſs com-
" miſſion immediately from God, or elſe by authority derived at the
" firſt

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" firſt from their conſent, upon whoſe perſons they impoſe laws, it " is no better than mere tyranny. Laws therefore they are not, " which public conſent hath not made ſo." The humour of our age conſidered, I ſhould not have dared to ſay ſo much; but if Hooker be a man of ſuch great authority, I cannot offend in tranſcribing his words, and ſhewing how vilely he is abuſed by Filmer; concluding, that if he be in the right, the choice and conſtitution of government, the making of laws, coronation, inauguration, and all that belongs to the chuſing and making of kings, or other magiſtrates, is merely from the people; and that all power exerciſed over them, which is not ſo, is uſurpation and tyranny, unleſs it be by an immediate commiſſion from God; which if any man has, let him give teſtimony of it, and I will confeſs he comes not within the reach of our reaſonings, but ought to be obeyed by thoſe to whom he is ſent, or over whom he is placed.

Nevertheleſs our author is of another opinion; but ſcorning to give us a reaſon, he adds to Hooker's words, " As if theſe ſolemnities " were a kind of deed, whereby the right of dominion is given; " which ſtrange, untrue, and unnatural conceits are ſet abroad by " feedſmen of rebellion;" and a little farther, " unleſs we will openly " proclaim defiance unto all law, equity, and reaſon, we muſt ſay " (for there is no remedy) that in kingdoms hereditary, birthright " giveth a right unto ſovereign dominion, &c. Thoſe ſolemnities do " either ſerve for an open teſtification of the inheritor's right, or be- " long to the form of inducing him into the poſſeſſion." Theſe are bold cenſures, and do not only reach Mr. Hooker, whoſe modeſty, and peaceableneſs of ſpirit, is no leſs eſteemed than his learning; but the ſcriptures alſo, and the beſt of human authors, upon which he founded his opinions. But why ſhould it be thought a ſtrange, untrue, or unnatural conceit, to believe that when the ſcriptures ſay Nimrod was the firſt that grew powerful in the earth long before the death of his fathers, and could conſequently neither have a right of dominion over the multitude met together at Babylon, nor ſubdue them by his own ſtrength, he was ſet up by their conſent; or that they who made him their governor, might preſcribe rules by which he ſhould govern? Nothing ſeems to me leſs ſtrange, than that a multitude of reaſonable creatures, in the performance of acts of the greateſt importance, ſhould conſider why they do them. And the infinite variety which is obſerved in the conſtitution, mixture, and regulation of governments, does not only ſhew that the ſeveral nations of the world have conſidered them; but clearly prove that all nations have perpetually continued in the exerciſe of that right. Nothing is more natural than to follow the voice of mankind: the wiſeſt and beſt have ever employed their ſtudies in forming kingdoms and commonwealths, or in adding to the perfections of ſuch as were already conſtituted; which had been contrary to the laws of God and nature, if a general rule had been ſet, which had obliged all to be for ever ſubject to the will of one; and they had not been the beſt but the worſt of men who had departed from it. Nay, I may ſay, that the law given by God to his peculiar people, and the commands delivered by his ſervants in order to it, or the proſecution

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of it, had been contrary to his own eternal and univerſal law; which is impoſſible. A law therefore having been given by God, which had no relation to or conſiſtency with the abſolute paternal power; judges and kings created, who had no pretence to any preference before their brethren, till they were created, and commanded not to raiſe their hearts above them when they ſhould be created; the wiſdom and virtue of the beſt men, in all ages, ſhewn in the conſtitution or reformation of governments; and nations, in variouſly framing them, preſerving the poſſeſſion of their natural right, to be governed by none, and in no other way than they ſhould appoint; the opinions of Hooker, "That all public regiment, of what kind ſoever, ariſeth "from the deliberate advice of men ſeeking their own good, and that "all other is mere tyranny," are not "untrue and unnatural conceits "ſet abroad" by the ſeedſmen of "rebellion;" but real truths grounded upon the laws of God and nature, acknowledged and practiſed by mankind. And no nation being juſtly ſubject to any, but ſuch as they ſet up, nor in any other manner than according to ſuch laws as they ordain, the right of chuſing and making thoſe that are to govern them, muſt wholly depend upon their will. SECT. 7.

SECT. VII.

The laws of every nation are the meaſure of magiſtratical power.

OUR author lays much weight upon the word hereditary; but the queſtion is, What is inherited in an hereditary kingdom, and how it comes to be hereditary? It is in vain to ſay "the king-"dom;" for we do not know what he means by the kingdom: it is one thing in one place, and very different in others; and I think it not eaſy to find two in the world that in power are exactly the ſame. If he underſtand all that is comprehended within the precincts over which it reaches, I deny that any ſuch is to be found in the world: if he refer to what preceding kings enjoyed, no determination can be made, till the firſt original of that kingdom be examined, that it may be known what that firſt king had, and from whence he had it.

If this variety be denied, I deſire to know whether the kings of Sparta and Perſia had the ſame power over their ſubjects; if the ſame, whether both were abſolute, or both limited; if limited, how came the decrees of the Perſian kings to paſs for laws? If abſolute, how could the Spartan kings be ſubject to fines, impriſonment, or the ſentence of death; and not to have power to ſend for their own ſupper out of the common hall? Why did Xenophon call Ageſilaus a good and faithful king, obedient to the laws of his country, when, upon the command of the ephori, he left the war that he had with ſo much glory begun in Aſia, if he was ſubject to none? How came the ephori to be eſtabliſhed to reſtrain the power of kings, if it could no way be reſtrained, if all owed obedience to them, and they to none? Why did Theopompus's wife reprove him for ſuffering

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his power to be diminiſhed by their creation, if it could not be diminiſhed? Or why did he ſay he had made the power more permanent in making it leſs odious, if it was perpetual and unalterable? We may go farther, and taking Xenophon and Plutarch for our guides, aſſert that the kings of Sparta never had the powers of war or peace, life and death, which our author eſteems inſeparable from regality, and conclude either that no king has them, or that all kings are not alike in power. If they are not in all places the ſame, kings do not reign by an univerſal law, but by the particular laws of each country; which give to every one ſo much power, as in the opinion of the givers conduces to the end of their inſtitution, which is the public good.

It may be alſo worth our inquiry how this inherited power came to be hereditary. We know that the ſons of Veſpaſian and Conſtantine inherited the Roman empire, tho' their fathers had no ſuch title; but, gaining the empire by violence, which Hooker ſays is mere tyranny that can create no right, they could devolve none to their children. The kings of France of the three races have inherited the crown; but Meroveus, Pepin, and Hugh Capet, could neither pretend title nor conqueſt, or any other right than what was conferred upon them by the clergy, nobility, and people; and conſequently whatſoever is inherited from them can have no other original; for that is the gift of the people which is beſtowed upon the firſt, under whom the ſucceſſors claim, as if it had been by a peculiar act given to every one of them. It will be more hard to ſhew how the crown of England is become hereditary, unleſs it be by the will of the people; for tho' it were granted, that ſome of the Saxon kings came in by inheritance (which I do not, having, as I think, proved them to have been abſolutely elective) yet William the Norman did not, for he was a baſtard, and could inherit nothing. William Rufus and Henry did not; for their elder Brother Robert by right of inheritance ought to have been preferred before them: Stephen and Henry the ſecond did not; for Maud the only heireſs of Henry the Firſt was living when both were crowned: Richard, and John, who followed, did not, for they were baſtards born in adultery. They muſt therefore have received their right from the people, or they could have none at all; and their ſucceſſors fall under the ſame condition.

Moreover, I find great variety in the deduction of this hereditary right. In Sparta there were two kings of different families, endowed with an equal power. If the Heraclidæ did reign as fathers of the people, the Æacidæ did not; if the right was in the Æacidæ, the Heraclidæ could have none; for 'tis equally impoſſible to have two fathers as two thouſand. 'Tis in vain to ſay that two families joined, and agreed to reign jointly: for it is evident the Spartans had kings before the time of Hercules or Achilles, who were the fathers of the two races. If it be ſaid, that the regal power with which they were inveſted did intitle them to the right of fathers, it muſt in like manner have belonged to the Roman conſuls, military tribunes, dictators, and pretors; for they had more power than the Spartan kings; and that glorious nation might change their fathers every year, and multiply or diminiſh the number of them as they pleaſed. If this be moſt ridiculous and abſurd, it is certain, that the name and office of

king, conſul, dictator, or the like, does not confer any determined right upon the perſon that hath it: every one has a right to that which is allotted to him by the laws of the country by which he is created. SECT. 7.

As the Perſians, Spartans, Romans, or Germans, might make ſuch magiſtrates, and under ſuch names, as beſt pleaſed themſelves, and accordingly enlarge or diminiſh their power; the ſame right belongs to all nations; and the rights due unto, as well as the duties incumbent upon every one, are to be known only by the laws of that place. This may ſeem ſtrange to thoſe who know neither books nor things, hiſtories nor laws; but is well explained by Grotius; who, denying the ſovereign power to be annexed to any man, ſpeaks of divers magiſtrates under ſeveral names that had, and others that under the ſame names had it not; and diſtinguiſhes thoſe who have the "ſummum imperium ſummo modo," from thoſe who have it "modo non ſummo:" and tho' probably he looked upon the firſt ſort as a thing merely ſpeculative, if by that "ſummo modo" a right of doing what one pleaſes be underſtood; yet he gives many examples of the other; and among thoſe who had "liberrimum imperium," if any had it, he names the kings of the Sabeans; who nevertheleſs were under ſuch a condition, that tho' they were, as Agatharchidas reports, obeyed in all things, whilſt they continued within the walls of their palace, might be ſtoned by any that met them without it. He finds alſo another obſtacle to the abſolute power, "cum rex partem habeat "ſummi imperii, partem ſenatus, ſive populus;" which parts are proportioned according to the laws of each kingdom, whether hereditary or elective, both being equally regulated by them. Grot. de jur. bel. & pac. l. i. c. 1.

The law that gives and meaſures the power, preſcribes rules how it ſhould be tranſmitted. In ſome places the ſupreme magiſtrates are annually elected, in others their power is for life; in ſome they are merely elective, in others hereditary, under certain rules or limitations. The antient kingdoms and lordſhips of Spain were hereditary; but the ſucceſſion went ordinarily to the eldeſt of the reigning family, not to the neareſt in blood. This was the ground of the quarrel between Corbis the brother, and Orſua the ſon of the laſt prince, decided by combat before Scipio. I know not whether the Goths brought that cuſtom with them when they conquered Spain, or whether they learnt it from the inhabitants; but certain it is, that, keeping themſelves to the families of the Balthei and Amalthei, they had more regard to age than proximity; and almoſt ever preferred the brother, or eldeſt kinſman of the laſt king before his ſon. The like cuſtom was in uſe among the Moors in Spain and Africa, who, according to the ſeveral changes that happened among the families of Almohades, Almoranides, and Benemerini, did always take one of the reigning blood; but in the choice of him had moſt reſpect to age and capacity. This is uſually called the law of thaneſtry; and, as in many other places, prevailed alſo in Ireland, till that country fell under the Engliſh government. T. Liv. l. xxviii. c. 21. Saavedra corona Gothica. Marian. hiſt. Hiſpan.

In France and Turky, the male that is neareſt in blood, ſucceeds; and I do not know of any deviation from that rule in France, ſince Henry the firſt was preferred before Robert his elder brother, grand-

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grandchild to Hugh Capet: but, notwithſtanding the great veneration they have for the royal blood, they utterly exclude females, leſt the crown ſhould fall to a ſtranger; or a woman, that is ſeldom able to govern herſelf, ſhould come to govern ſo great a people. Some nations admit females, either ſimply, as well as males; or under a condition of not marrying out of their country, or without the conſent of the eſtates, with an abſolute excluſion of them, and their children, if they do; according to which law, now in force among the Swedes, Charles Guſtavus was choſen king, upon the reſignation of queen Chriſtina, as having no title; and the crown ſettled upon the heirs of his body, to the utter excluſion of his brother Adolphus, their mother having married a German. Tho' divers nations have differently diſpoſed their affairs; all thoſe that are not naturally ſlaves, and like to beaſts, have preferred their own good before the perſonal intereſts of him that expects the crown, ſo as upon no pretence whatever to admit of one, who is evidently guilty of ſuch vices as are prejudicial to the ſtate. For this reaſon the French, tho' much addicted to their kings, rejected the vile remainders of Meroveus his race, and made Pepin the ſon of Charles Martel king: and when his deſcendents fell into the like vices, they were often depoſed, till at laſt they were wholly rejected, and the crown given to Capet, and to his heirs male, as formerly. Yet for all this, Henry his grandchild, being eſteemed more fit to govern, than his elder brother Robert, was, as is ſaid before, made king, and that crown ſtill remains in his deſcendents; no conſideration being had of the children of Robert, who continued dukes of Burgundy during the reigns of ten kings. And, in the memory of our fathers, Henry of Navarre was rejected by two aſſemblies of the eſtates, becauſe he differed in religion from the body of the nation, and could never be received as king, till he had renounced his own, tho' he was certainly the next in blood; and that, in all other reſpects, he excelled in thoſe virtues which they moſt eſteem.

Vide p. 47.

We have already proved, that our own hiſtory is full of the like examples; and might enumerate a multitude of others, if it were not too tedious: and as the various rules, according to which all the hereditary crowns of the world are inherited, ſhew, that none is ſet by nature, but that every people proceeds according to their own will; the frequent deviations from thoſe rules do evidently teſtify, that "ſalus populi eſt lex ſuprema;" and that no crown is granted otherwiſe, than in ſubmiſſion to it.

But tho' there were a rule, which in no caſe ought to be tranſgreſſed, there muſt be a power of judging to whom it ought to be applied. It is perhaps hard to conceive one more preciſe than that of France, where the eldeſt legitimate male in the direct line is preferred; and yet that alone is not ſufficient. There may be baſtardy in the caſe: baſtards may be thought legitimate, and legitimate ſons baſtards. The children born of Iſabel of Portugal, during her marriage with John the Third of Caſtile, were declared baſtards; and the title of the houſe of Auſtria to that crown depends upon that declaration. We often ſee, that marriages which have been contracted, and for a long time taken to be good, have been declared null;

and

and the legitimation of the preſent king of France is founded ſolely upon the abolition of the marriage of Henry the Fourth with Marguerite of Valois, which for the ſpace of twenty-ſeven years was thought to have been good. Whilſt Spain was divided into five or ſix kingdoms, and the ſeveral kings linked to each other by mutual alliances, inceſtuous marriages were often contracted, and upon better conſideration annulled; many have been utterly void, through the pre-engagement of one of the parties. Theſe are not feigned caſes, but ſuch as happen frequently; and the diverſity of accidents, as well as the humours of men, may produce many others, which would involve nations in the moſt fatal diſorders, if every one ſhould think himſelf obliged to follow ſuch a one who pretended a title, that to him might ſeem plauſible, when another ſhould ſet up one as pleaſing to others, and there were no power to terminate thoſe diſputes to which both muſt ſubmit, but the deciſion muſt be left to the ſword. SECT. 7.

This is that which I call the application of the rule, when it is as plain and certain as human wiſdom can make it; but if it be left more at large, as where females inherit, the difficulties are inextricable: and he that ſays, the next heir is really king when one is dead, before he be ſo declared by a power that may judge of his title, does, as far as in him lies, expoſe nations to be ſplit into the moſt deſperate factions, and every man to fight for the title which he fancies to be good till he deſtroy thoſe of the contrary party, or be deſtroyed by them. This is the bleſſed way propoſed by our author to prevent ſedition: but, God be thanked, our anceſtors found a better. They did not look upon Robert the Norman as king of England after the death of his father; and when he did proudly endeavour, on pretence of inheritance, to impoſe himſelf upon the nation, that thought fit to prefer his younger brothers before him, he paid the penalty of his folly, by the loſs of his eyes and liberty. The French did not think the grandchild of Pharamond to be king after the death of his father, nor ſeek who was the next heir of the Merovingian line, when Chilperic the Third was dead; nor regard the title of Charles of Lorrain after the death of his brother Lothair, or of Robert of Burgundy eldeſt ſon of king Robert; but advanced Meroveus, Pepin, Capet, and Henry the Firſt, who had no other right than what the nobility and people beſtowed upon them. And if ſuch acts do not deſtroy the pretences of all who lay claim to crowns by inheritance, and do not create a right, I think it will be hard to find a lawful king in the world, or that there ever have been any; ſince the firſt did plainly come in like Nimrod; and thoſe who have been every-where ſince hiſtories are known to us, owed their exaltation to the conſent of nations, armed or unarmed, by the depoſition or excluſion of the heirs of ſuch as had reigned before them.

Our author, not troubling himſelf with theſe things, or any other relating to the matter in queſtion, is pleaſed to ſlight Hooker's opinions concerning coronation and inauguration, with "the heaps of "ſcripture" upon which he grounds them; whereas thoſe ſolemnities would not only have been fooliſh and impertinent, but profane and impious,

CHAP. II. impious, if they were not deeds by which the right of dominion is really conferred. What could be more wickedly ſuperſtitious, than to call all Iſrael together before the Lord, and to caſt lots upon every tribe, family, and perſon, for the election of a king, if it had been known to whom the crown did belong by a natural and unalterable right? or if there had been ſuch a thing in nature, how could God have cauſed that lot to fall upon one of the youngeſt tribe, for ever to diſcountenance his own law, and divert nations from taking any notice of it? It had been abſurd for the tribe of Judah to chuſe and anoint David, and for the other tribes to follow their example after the death of Iſhboſheth, if he had been king by a right not depending on their will. David did worſe in ſlaying the ſons of Rimmon, ſaying, they had killed a righteous man lying on his bed, if Iſhboſheth, whoſe head they preſented, had moſt unrighteouſly detained from him, as long as he lived, the dominion of the ten tribes: the king, elders, and people, had moſt ſcornfully abuſed the moſt ſacred things, by uſing ſuch ceremonies in making him king, and completing their work in a covenant made between him and them before the Lord, if he had been already king, and if thoſe acts had been empty ceremonies conferring no right at all.

I dare not ſay, that a league does imply an abſolute equality between both parties; for there is a "fœdus inæquale," wherein the weaker, as Grotius ſays, does uſually obtain protection, and the ſtronger honour; but there can be none at all, unleſs both parties are equally free to make it, or not to make it. David therefore was not king, till he was elected, and thoſe covenants made; and he was made king by that election and covenants

This is not ſhaken by our author's ſuppoſition, "That the people "would not have taken Joas, Manaſſeh, or Joſiah, if they had had a "right of chuſing a king; ſince Solomon ſays, Wo unto the kingdom "whoſe king is a child!" For, firſt, they who at the firſt had a right of chuſing whom they pleaſed to be king, by the covenant made with him whom they did chuſe, may have deprived themſelves of the farther execution of it, and rendered the crown hereditary even to children, unleſs the conditions were violated upon which it was granted. In the ſecond place, if the infancy of a king brings woe upon a people, the government of ſuch a one cannot be according to the laws of God and nature; for governments are not inſtituted by either for the pleaſure of a man, but for the good of nations; and their weal, not their woe, is ſought by both: and if children are any-where admitted to rule, it is by the particular law of the place, grounded perhaps upon an opinion, that it is the beſt way to prevent dangerous conteſts; or that other ways may be found to prevent the inconveniences that may proceed from their weakneſs. Thirdly, It cannot be concluded, that they might not reject children, becauſe they did not: ſuch matters require poſitive proofs; ſuppoſitions are of no value in relation to them, and the whole matter may be altered by particular circumſtances. The Jews might reaſonably have a great veneration for the houſe of David: they knew what was promiſed to that family; and whatever reſpect was paid,

or

or privilege granted, on that account, can be of no advantage to any other in the world. They might be farther induced to ſet up Joas, in hope the defects of his age might be ſupplied by the virtue, experience and wiſdom of Jehoiada. We do not know what good opinion may have been conceived of Manaſſeh when he was twelve years old; but much might be hoped from one that had been virtuouſly educated, and was probably under the care of ſuch as had been choſen by Hezekiah: and tho' the contrary did fall out, the miſchiefs brought upon the people by his wicked reign proceeded not from the weakneſs of his childhood, but from the malice of his riper years. And both the examples of Joas and Joſiah prove, that neither of them came in by their own right, but by the choice of the people. Sect. 7.

" Jehoiada gathered the Levites out of all the cities of Judah, and " the chief of the fathers of Iſrael, and they came to Jeruſalem: and " all the congregation made a covenant with the king in the houſe " of God, and brought out the king's ſon, and put upon him the " crown, and gave him the teſtimony, and made him king;" whereupon they ſlew Athaliah. 2 Chron.xxiii

" And when Ammon was ſlain, the people " of the land ſlew them that had conſpired againſt king Ammon; " and the people of the land made Joſiah his ſon king in his ſtead:" which had been moſt impertinent, if he was of himſelf king before they made him ſo. 2 Chron. xxxiii.

Beſides, tho' infancy may be a juſt cauſe of excepting againſt, and rejecting the next heir to a crown, it is not the greateſt or ſtrongeſt. It is far more eaſy to find a remedy againſt the folly of a child (if the ſtate be well regulated) than the more rooted vices of grown men. The Engliſh, who willingly received Henry the Sixth, Edward the Fifth and Sixth, tho' children, reſolutely oppoſed Robert the Norman: and the French, who willingly ſubmitted to Charles the Ninth, Lewis the Thirteenth and Fourteenth, in their infancy, rejected the lewd remainders of Meroveus his race; Charles of Lorrain, with his kindred, deſcended from Pepin, Robert duke of Burgundy with his deſcendents, and Henry of Navarre, till he had ſatisfied the nobility and people in the point of religion. And tho' I do not know that the letter upon the words, " Væ regno cujus rex " puer eſt," recited by Lambard, was written by Eleutherius biſhop of Rome; yet the authority given to it by the Saxons, who made it a law, is much more to be valued than what it could receive from the writer; and whoever he was, he ſeems rightly to have underſtood Solomon's meaning, who did not look upon him as a child that wanted years, or was ſuperannuated, but him only who was guilty of inſolence, luxury, folly and madneſs: and he that ſaid, " A wiſe child " was better than an old and fooliſh king," could have no other meaning, unleſs he ſhould ſay, it was worſe to be governed by a wiſe perſon than a fool; which may agree with the judgment of our author, but could never enter into the heart of Solomon. Lamb. leg. Saxon.

Laſtly, Tho' the practice of one or more nations may indicate what laws, covenants, or cuſtoms, were in force among them, yet they cannot bind others: the diverſity of them proceeds from the variety of mens judgments, and declares, that the direction of all ſuch affairs depends upon their own will; according to which every people for themſelves forms and meaſures the magiſtracy, and magiſtratical

CHAP. II.

ſtratical power; which, as it is directed ſolely for the good, hath its exerciſes and extent proportionable to the command of thoſe that inſtitute it; and ſuch ordinances being good for men, God makes them his own.

SECT. VIII.

There is no natural propenſity in man or beaſt to monarchy.

I See no reaſon to believe that God did approve the government of one over many, becauſe he created but one; but to the contrary, inaſmuch as he did endow him, and thoſe that came from him, as well the youngeſt as the eldeſt line, with underſtanding to provide for themſelves, and by the invention of arts and ſciences, to be beneficial to each other; he ſhewed, that they ought to make uſe of that underſtanding in forming governments according to their own convenience, and ſuch occaſions as ſhould ariſe, as well as in other matters: and it might as well be inferred, that it is unlawful for us to build, clothe, arm, defend, or nouriſh ourſelves, otherwiſe than as our firſt parents did, before or ſoon after the flood, as to take from us the liberty of inſtituting governments that were not known to them. If they did not find out all that conduces to the uſe of man, but a faculty as well as a liberty was left to every one, and will be to the end of the world, to make uſe of his wit, induſtry, and experience, according to preſent exigencies, to invent and practiſe ſuch things as ſeem convenient to himſelf and others in matters of the leaſt importance; it were abſurd to imagine, that the political ſcience, which of all others is the moſt abſtruſe and variable according to accidents and circumſtances, ſhould have been perfectly known to them who had no uſe of it; and that their deſcendents are obliged to add nothing to what they practiſed. But the reaſon given by our author to prove this extravagant fancy, is yet more ridiculous than the thing itſelf; "God," ſaith he, "ſhewed his opinion," viz. that all ſhould be governed by one, "when he endowed not only men, but beaſts, with "a natural propenſity to monarchy: neither can it be doubted, but "a natural propenſity is referred to God, who is the author of nature:" which I ſuppoſe may appear if it be conſidered.

Nevertheleſs I cannot but commend him in the firſt place for introducing God ſpeaking ſo modeſtly, not declaring his will, but his opinion. He puts haughty and majeſtic language into the mouth of kings. They command and decide, as if they were ſubject to no error, and their wills ought to be taken for perpetual laws; but to God he aſcribes an humble delivery of his opinion only, as if he feared to be miſtaken. In the ſecond place, I deny that there is any ſuch general propenſity in man or beaſt, or that monarchy would thereby be juſtified tho' it were found in them. It cannot be in beaſts, for they know not what government is; and being uncapable of it, cannot diſtinguiſh the ſeveral ſorts, nor conſequently incline to one more than another. Salmaſius's ſtory of bees is only

fit

fit for old women to prate of in chimney-corners; and they who repreſent lions and eagles as kings of birds and beaſts, do it only to ſhew, that their power is nothing but brutiſh violence, exerciſed in the deſtruction of all that are not able to oppoſe it, and that hath nothing of goodneſs or juſtice in it: which ſimilitude (tho' it ſhould prove to be in all reſpects adequate to the matter in queſtion) could only ſhew, that thoſe who have no ſenſe of right, reaſon, or religion, have a natural propenſity to make uſe of their ſtrength, to the deſtruction of ſuch as are weaker than they; and not that any are willing to ſubmit, or not to reſiſt it if they can, which I think will be of no great advantage to monarchy. But whatever propenſity may be in beaſts, it cannot be attributed generally to men; for if it were, they never could have deviated from it, unleſs they were violently put out of their natural courſe; which in this caſe cannot be; for there is no power to force them. But that they have moſt frequently deviated, appears by the various forms of government eſtabliſhed by them. There is therefore no natural propenſity to any one; but they chuſe that which in their judgment ſeems beſt for them. Or, if he would have that inconſiderate impulſe, by which brutiſh and ignorant men may be ſwayed, when they know no better, to paſs for a propenſity; others are no more obliged to follow it, than to live upon acorns, or inhabit hollow trees, becauſe their fathers did it when they had no better dwellings, and found no better nouriſhment in the uncultivated world. And he that exhibits ſuch examples, as far as in him lies, endeavours to take from us the uſe of reaſon, and, extinguiſhing the light of it, to make us live like the worſt of beaſts, that we may be fit ſubjects to abſolute monarchy. This may perhaps be our author's intention, having learnt from Ariſtotle, that ſuch a government is only ſuitable to the nature of the moſt beſtial men, who being uncapable of governing themſelves, fall under the power of ſuch as will take the conduct of them: but he ought withal to have remembred, that, according to Ariſtotle's opinion, this conductor muſt be in nature different from thoſe he takes the charge of; and, if he be not, there can be no government, nor order by which it ſubſiſts, beaſts follow beaſts, and the blind lead the blind to deſtruction. SECT. 8.

But tho' I ſhould grant this propenſity to be general, it could not be imputed to God, ſince man by ſin is fallen from the law of his creation. "The wickedneſs of man (even in the firſt ages) was great "in the world: all the imaginations of his heart are evil, and that con-"tinually. All men are liars. There is none that doth good, no not one. "Out of the heart proceed evil thoughts, murders, adulteries, forni-"cations, thefts, falſe teſtimonies," &c. Theſe are the fruits of our corrupted nature, which the apoſtle obſerving, does not only make a difference between the natural and the ſpiritual man, whoſe proceeding only can be referred to God, and that only ſo far as he is guided by his Spirit; but ſhews that the natural man is in a perpetual enmity againſt God, without any poſſibility of being reconciled to him, unleſs by the deſtruction of the old man, and the regenerating or renewing him through the Spirit of grace. There being no footſteps of this in our author's book, he and his maſter Heylin

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may have differed from the apoſtle, referring that propenſity of nature to God, which he declares to be utter enmity againſt him; and we may conclude, that this propenſity, however general it may be, cannot be attributed to God as the author of nature, ſince it can-be no more general than the corruptions into which we are fallen.

SECT. IX.

The government inſtituted by God over the Iſraelites was ariſtocratical.

NOtwithſtanding all this, our author is reſolved that monarchy muſt be from God: "What form of government, ſays he, God "ordained by his authority, may be gathered by that commonwealth "which he inſtituted amongſt the Hebrews; which was not ariſtocrati-"cal, as Calvin ſaith, but plainly monarchical." I may in as few words deny the government ſet up by God to have been monarchical, as he aſſerts it; but finding ſuch language ordinarily to proceed from a mixture of folly, impudence, and pride, I chuſe rather to ſhew upon what I ground my opinions, than nakedly to deliver them; moſt eſpecially, when, by inſiſting upon the government inſtituted by God over his people, he refers us to the ſcripture. And I do this the more boldly, ſince I follow Calvin's expoſition; and believe that he, having been highly eſteemed for his wit, judgment, and learning, by ſuch as were endowed with the like, and reverenced as a glorious ſervant of God, might, if he were now alive, comfort himſelf, tho' he had the misfortune to fall under the cenſures of Filmer and his followers. It is probable he gave ſome reaſons for his opinions; but our author having maliciouſly concealed them, and I not having leiſure at preſent to examine all his writings to find them, muſt content myſelf with ſuch as my ſmall underſtanding may ſuggeſt, and ſuch as I have found in approved authors.

In the firſt place I may ſafely ſay, he was not alone of that opinion: Joſephus, Philo, and Moſes Maimonides, with all the beſt of the Jewiſh and Chriſtian authors, had long before delivered the ſame.

Joſ. ant. Jud. Joſephus ſays, that Saul's firſt ſin, by which he fell, was, "that he took "away the ariſtocracy;" which he could not do, if it had never been eſtabliſhed. Philo imputes the inſtitution of kingly government, as it was in Iſrael, neither to God, nor his word, but to the fury of the ſinfull people.

Abar. in 1 Sam. viii. Abarbenel ſays, it proceeded from their delight in the idolatry to which their neighbours were addicted, and which could be upheld only by a government, in practice and principle contrary to that which God had inſtituted.

Maim. more nevochim. Maimonides frequently ſays the ſame thing grounded upon the words of Hoſea, "I gave them kings "in my wrath;" and whoſoever will call that a divine inſtitution, may give the ſame name to plagues or famines, and induce a neceſſity incumbent upon all men to go and ſearch the one where they may find it; and to leave their lands for ever uncultivated, that they may be ſure of the other: which being too beſtial to be aſſerted by a man,

I may ſafely ſay, the Hebrew kings were not inſtituted by God, but given as a puniſhment of their ſin, who deſpiſed the government that he had inſtituted: and the above-mentioned authors agree in the ſame thing, calling the people's deſire to have a king, furious, mad, wicked, and proceeding from their love to the idolatry of their neighbours, which was ſuited to their government; both which were inconſiſtent with what God had eſtabliſhed over his own people. SECT. 9.

But waving the opinions of men, it is good to ſee what we can learn from the ſcripture, and inquire if there be any precept there expreſly commanding them to make a king; or any example that they did ſo whilſt they continued obedient to the word of God; or any thing from whence we may reaſonably infer they ought to have done it: all which, if I miſtake not, will be found directly contrary.

The only precept that we find in the law concerning kings, is that of Deuteronomy xvii. already mentioned; and that is not a command to the people to make, but inſtructions what manner of king they ſhould make if they deſired to have one: there was therefore none at all.

Examples do as little favour our author's aſſertions. Moſes, Joſhua, and the other judges, had not the name or power of kings: they were not of the tribe to which the ſceptre was promiſed: they did not tranſmit the power they had to their children, which in our adverſary's opinion is a right inſeparable from kings: and their power was not continued by any kind of ſucceſſion, but created occaſionally, as need required, according to the virtues diſcovered in thoſe who were raiſed by God to deliver the nation in the time of their diſtreſs; which being done, their children lay hid among the reſt of the people. Thus were Ehud, Gideon, Jephthah, and others, ſet up: "Whoſoever will give battle" (ſay the princes and people of Gilead) "to the children of Ammon, ſhall be head over the in- "heritance of Gilead:" and finding Jephthah to be ſuch a man as they ſought, they made him their chief, and all Iſrael followed them. When Othniel had ſhewed his valour in taking Kirjath-ſepher, and delivering his brethren from Cuſhan-riſhathaim, he was made judge: when Ehud had killed Eglon; when Shamgar and Samſon had deſtroyed great numbers of the Philiſtines; and when Gideon had defeated the Midianites, they were fit to be advanced above their brethren. Theſe dignities were not inherent in their perſons, or families, but conferred upon them; nor conferred, that they might be exalted in riches and glory, but that they might be miniſters of good to the people. This may juſtify Plato's opinion, that if one man be found incomparably to excel all others in the virtues that are beneficial to civil ſocieties, he ought to be advanced above all: but I think it will be hard from thence to deduce an argument in favour of ſuch a monarchy as is neceſſarily to deſcend to the next in blood, whether man, woman, or child, without any conſideration of virtue, age, ſex, or ability; and that failing, it can be of no uſe to our author. But whatever the dignity of a Hebrew judge was, and howſoever he was raiſed to that office, it certainly differed from that of a king. Gideon could not have refuſed to be a king when the Judg. x.

people

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people would have made him ſo, if he had been a king already; or that God from the beginning had appointed that they ſhould have one: the elders and people could not have aſked a king of Samuel, if he had been king; and he could not without impiety have been diſpleaſed with them for aſking for ſuch a one as God had appointed; neither would God have ſaid to him, "They have not rejected thee, "but they have rejected me that I ſhould not reign over them," if he had ordained what they deſired.

1 Sam. viii.

They did not indeed reject God with their mouths: they pretended to uſe the liberty he had given them to make a king; but would have ſuch a one as he had forbidden: they drew near to him with their lips, but their hearts were far from him; and he ſeeing their hypocriſy, ſeverely chaſtiſed them in granting their ill-conceived requeſt; and foretold the miſeries that ſhould thereupon befal them, from which he would not deliver them, tho' they ſhould cry to him by reaſon of what they ſuffered from their king: he was their creature, and the miſchiefs thereby brought upon them were the fruits of their own labour.

This is that which our author calls God's inſtitution of kings; but the prophet explains the matter much better, "I gave them kings "in my anger, and took them away in my wrath:" in deſtroying them God brought deſolation upon the people that had ſinned in aſking for them, and following their example in all kind of wickedneſs. This is all our author has to boaſt of: but God, who acknowledges thoſe works only to be his own, which proceed from his goodneſs and mercy to his people, diſowns this; "Iſrael hath caſt off the thing "that is good" (even the government that he had eſtabliſhed): "the "enemy ſhall purſue him: they have ſet up kings, but not by me; "and princes, but I know them not." As if he ſought to juſtify the ſeverity of his judgments brought upon them by the wickedneſs of their kings, that they, not he, had ordained.

Hoſ. xiii.

Hoſ. viii.

Having ſeen what government God did not ordain, it may be ſeaſonable to examine the nature of the government which he did ordain; and we ſhall eaſily find, that it conſiſted of three parts, beſides the magiſtrates of the ſeveral tribes and cities. They had a chief magiſtrate, who was called judge or captain, as Joſhua, Gideon, and others, a council of ſeventy choſen men, and the general aſſemblies of the people.

Numb. xi.

The firſt was merely occaſional, like to the dictators of Rome; and as the Romans in times of danger frequently choſe ſuch a man as was much eſteemed for valour and wiſdom, God's peculiar people had a peculiar regard to that wiſdom and valour which was accompanied with his preſence, hoping for deliverance only from him.

The ſecond is known by the name of the great ſanhedrin, which being inſtituted by Moſes according to the command of God, continued, till they were all ſave one ſlain by Herod. And the third part, which is the aſſembly of the people, was ſo common, that none can be ignorant of it, but ſuch as never looked into the ſcripture. When the tribes of Reuben, Gad, and half that of Manaſſeh, had built an altar on the ſide of Jordan, "the whole congregation of "the children of Iſrael gathered together at Shiloh to go up to war "againſt

Joſh. xxii.

" againſt them, and ſent Phinehas the ſon of Eleazer, and with him SECT. 9.
" ten princes, &c." This was the higheſt and moſt important action that could concern a people, even war or peace, and that not with ſtrangers, but their own brethren. Joſhua was then alive: the elders never failed; but this was not tranſacted by him or them, but by the collected body of the people; " for they ſent Phineas." This democratical embaſſy was democratically received: it was not directed to one man, but to all the children of Reuben, Gad, and Manaſſeh, and the anſwer was ſent by them all; which being pleaſing to Phinehas, and the ten that were with him, they made their report to the congregation, and all was quiet.

The laſt eminent act performed by Joſhua was the calling of a like aſſembly to Shechem, compoſed of elders, heads of families, Joſ. xxiv judges, officers, and all the people, to whom he propoſed, and they agreeing, made a covenant before the Lord.

Joſhua being dead, the proceedings of every tribe were grounded upon counſels taken at ſuch aſſemblies among themſelves for their own concernments, as appears by the actions of Judah, Simeon, &c. Judg. i. againſt the Canaanites; and when the levite complained that his wife had been forced by thoſe of Gibeah, the whole congregation of Iſrael met together at Mizpeth from all parts, " even from Dan to " Beerſheba," as one man, and there reſolved upon that terrible war which they made againſt the tribe of Benjamin. The like aſſembly was gathered together for the election of Saul, every man was there: and tho' the elders only are ſaid to have aſked a king of Samuel, they ſeem to have been deputed from the whole congregation; for God ſaid, " Hearken to the voice of the people." In the ſame manner the 1 Sam. viii. 7. tribe of Judah, and after that the reſt, choſe and anointed David to be their king. After the death of Solomon all Iſrael met together to treat with Rehoboam; and not receiving ſatisfaction from him, ten of the tribes abrogated his kingdom.

If theſe actions were conſidered ſingly by themſelves, Calvin might have given the name of a democracy to the Hebrew government, as well as to that of Athens; for without doubt they evidently manifeſt the ſupreme power to have been in the ſupreme manner in theſe general aſſemblies; but the government (as to its outward order) conſiſting of thoſe three parts, which comprehend the three ſimple ſpecies, tho' in truth it was a theocracy; and no times having been appointed, nor occaſions ſpecified, upon which judges ſhould be choſen, or theſe aſſemblies called; whereas the ſanhedrim, which was the ariſtocratical part, was permanent, the whole might rightly be called an ariſtocracy, that part prevailing above the others: and tho' Joſephus calls it a theocracy, by reaſon of God's preſence with his people; yet in relation to man he calls it an ariſtocracy, and ſays, that Saul's firſt ſin, by which he fell from the kingdom, was, that " gubernationem optimatum ſuſtulit;" which could not be, if they were governed by a monarch before he was choſen.

Our author taking no notice of theſe matters, firſt endeavours to prove the excellency of monarchy from natural inſtinct; and then begging the queſtion, ſays, that God did always govern his people by monarchy; whereas he ought in the firſt place to have obſerved,

CHAP. II. that "this inſtinct" (if there be any ſuch thing) "is only an irrational "appetite, attributed to beaſts," that know not why they do any thing; "and is to be followed only by thoſe men who being equally "irrational, live in the ſame ignorance:" and the ſecond being proved Judg. xviii. to be abſolutely falſe by the expreſs words of the ſcripture, "there "was then no king in Iſrael," ſeveral times repeated, and the whole ſeries of the hiſtory, he hath no other evaſion than to ſay, "that "even then the Iſraelites were under the kingly government of the "fathers of particular families."

It appears by the forementioned text cited alſo by our author, that in the aſſembly of the people, gathered together to take counſel concerning the war againſt Benjamin, were four hundred thouſand footmen that drew ſword: they all aroſe together, ſaying, "Not a "man of us ſhall go to his tent. So all the men of Iſrael were "gathered together againſt the city." This is repeated ſeveral times in the relation. The Benjamites proceeded in the like manner in preparing for their defence; and if all theſe who did ſo meet to conſult and determine were monarchs, there were then in Iſrael and Benjamin four hundred and twenty-ſix thouſand ſeven hundred monarchs or kings, tho' the ſcriptures ſay there was not one.

If yet our author inſiſt upon his notion of kingly government, I deſire to know who were the ſubjects, if all theſe were kings; for the text ſays, that the "whole congregation was gathered together as "one man from Dan to Beerſheba." If there can be ſo many kings without one ſubject, what becomes of the right of Abraham, Iſaac, and Jacob, that was to have been devolved upon one man as heir to them, and thereby lord of all? If every man had an equal part in that inheritance, and by virtue of it became a king, why is not the ſame eternally ſubdivided to as many men as are in the world, who are alſo kings? If this be their natural condition, how comes it to be altered, till they do unthrone themſelves by conſent to ſet up one or more to have a power over them all? Why ſhould they deveſt themſelves of their natural right to ſet up one above themſelves, unleſs in conſideration of their own good? If the 426700 kings might retain the power in themſelves, or give it to one, why might they not give it to any ſuch number of men as ſhould beſt pleaſe themſelves, or retain it in their own hands, as they did till the days of Saul; or frame, limit, and direct it, according to their own pleaſure? If this be true, God is the author of democracy; and no aſſertor of human liberty did ever claim more than the people of God did enjoy and exerciſe at the time when our author ſays they were under the kingly government; which liberty being not granted by any peculiar conceſſion or inſtitution, the ſame muſt belong to all mankind.

It is in vain to ſay the 426700 men were heads of families; for the ſcripture only ſays, "They were footmen that drew the ſword," or rather all the men of Iſrael from Dan to Beerſheba, who were able to make war. When ſix hundred Benjamites did only remain of the 26700, it is plain that no more were left of that tribe, their women and children having been deſtroyed in the cities after their defeat. The next chapter makes the matter yet more plain; for when all that were at the congregation in Mizpeth were found to have ſworn they would not give their daughters to any of the tribe of

Benjamin, no Iſraelite was free from the oath, but the men of Jabeſh-gilead, who had not been at the aſſembly: all the reſt of Iſrael was therefore comprehended; and they continuing to govern in a popular way with abſolute power, ſent twelve thouſand of their moſt valiant men to deſtroy all the males of Jabeſh-gilead, and the women that had lain by man, reſerving the virgins for the Benjamites. This is enough for my purpoſe: for the queſtion is not concerning the power that every houſholder in London hath over his wife, children, and ſervants; but whether they are all perpetually ſubject to one man and family; and I intend not to ſet up their wives, prentices, and children, againſt them, or to diminiſh their rights, but to aſſert them, as the gift of God and nature, no otherwiſe to be reſtrained than by laws made with their conſent. SECT. 9. Judg. xxi.

Reaſon failing, our author pleaſes himſelf with terms of his own invention: "When the people begged a king of Samuel, they were "governed by a kingly power: God out of a ſpecial love and care to "the houſe of Iſrael, did chuſe to be their king himſelf, and did "govern them at that time by his viceroy Samuel and his ſons." The behaviour of the Iſraelites towards Samuel has been thought proud, perverſe, and obſtinate; but the fine court-word "begging" was never before applied to them; and their inſolent fury was not only ſeen againſt Samuel, but againſt God: "They have not rejected thee, but "they have rejected me." And I think Filmer is the firſt who ever found that beggars in begging did reject him of whom they begged: or if they were beggars, they were ſuch as would not be denied; for after all that Samuel had ſaid to diſſuade them from their wicked deſign, they ſaid, "Nay, but we will have a king." 1 Sam. viii. Ver. 19.

But leſt I ſhould be thought too much inclined to contradict our author, I confeſs that once he hath happened to be in the right. "God out of a ſpecial love to the houſe of Iſrael choſe to be their "king: he gave them laws, preſcribed a form of government, "raiſed up men in a wonderful manner to execute it, filled them "with his ſpirit, was ever preſent when they called upon him: he "gave them counſel in their doubts, and aſſiſtance in all their extremities: he made a covenant with them, and would be exalted "by them." But what is this to an earthly monarch? Who can from hence derive a right to any one man to play the lord over his brethren, or a reaſon why any nation ſhould ſet him up? God is our Lord by right of creation, and our only Lord, becauſe he only hath created us. If any other were equal to him in wiſdom, power, goodneſs, and beneficence to us, he might challenge the ſame duty from us. If growing out of ourſelves, receiving being from none, depending on no providence, we were offered the protection of a wiſdom ſubject to no error, a goodneſs that could never fail, and a power that nothing could reſiſt; it were reaſonable for us to enter into a covenant, ſubmit ourſelves to him, and with all the faculties of our minds to addict ourſelves to his ſervice. But what right can from hence accrue to a mortal creature like to one of us, from whom we have received nothing, and who ſtands in need of help as much as we? Who can from hence deduce an argument to perſuade us to depend upon his wiſdom, who has as little as other men? To ſubmit to his will who

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is ſubject to the ſame frailties, paſſions, and vices, with the reſt of mankind? Or to expect protection and defence from him whoſe life depends upon as ſlender threads as our own; and who can have no power but that which we confer upon him? If this cannot be done, but is of all things the moſt contrary to common ſenſe, no man can in himſelf have any right over us; we are all as free as the four hundred twenty-ſix thouſand ſeven hundred Hebrew kings: we can naturally owe allegiance to none; and I doubt whether all the luſts that have reigned amongſt men ſince the beginning of the world, have brought more guilt and miſery upon them than that prepoſterous and impudent pretence of imitating what God had inſtituted. When Saul ſet himſelf moſt violently to oppoſe the command of God, he pretended to fulfil it: when the Jews grew weary of God's government, and reſolved to reject him, that he ſhould not reign over them, they uſed ſome of Moſes's words, and aſked that king of God, whom they intended to ſet up againſt him: but this king had not been ſet up againſt God, the people had not rejected God, and ſinned in aſking for him, if every nation by a general law ought to have one, or by a particular law one had been appointed by him over them. There was therefore no king amongſt them, nor any law of God or nature, particular or general, according to which they ought to have one.

SECT. X.

Ariſtotle was not ſimply for monarchy, or againſt popular government; but approved or diſapproved of either according to circumſtances.

OUR author well obſerves, that Ariſtotle is hardly brought to give a general opinion in favour of monarchy, as if it were the beſt form of government, or to ſay true, never does it. He uſes much caution, propoſes conditions, and limitations, and makes no deciſion but according to circumſtances. Men of wiſdom and learning are ſubject to ſuch doubts; but none ought to wonder if ſtupidity and ignorance defend Filmer and his followers from them; or that their hatred to the antient virtue ſhould give them an averſion to the learning that was the nurſe of it. Thoſe who neither underſtand the ſeveral ſpecies of government, nor the various tempers of nations, may without fear or ſhame give their opinions in favour of that which beſt pleaſeth them; but wiſe men will always proportion their praiſes to the merit of the ſubject, and never commend that ſimply which is good only according to circumſtances. Ariſtotle highly applauds monarchy, when the monarch has more of thoſe virtues that tend to the good of a commonwealth than all they who compoſe it. This is the king mentioned in his Ethics, and extolled in his Politics: he is above all by nature, and ought not by a municipal law to be made equal to others in power: he ought to govern, becauſe it is better for a people to be governed by him, than

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to enjoy their liberty; or rather they do enjoy their liberty, which is never more ſafe, than when it is defended by one who is a living law to himſelf and others. Whereſoever ſuch a man appears, he ought to reign: he bears in his perſon the divine character of a ſovereign: God has raiſed him above all; and ſuch as will not ſubmit to him, ought to be accounted ſons of Belial, brought forth and ſlain. But he does withall confeſs, that if no ſuch man be found, there is no natural king: all the prerogatives belonging to him vaniſh, for want of one who is capable of enjoying them. He lays ſevere cenſures upon thoſe who, not being thus qualified, take upon them to govern men equal to or better than themſelves; and judges the aſſumption of ſuch powers by perſons who are not naturally adapted to the adminiſtration of them, as barbarous uſurpations, which no law or reaſon can juſtify; and is not ſo much tranſported with the excellency of this true king, as not to confeſs he ought to be limited by law: "Qui legem præeſſe jubet, videtur jubere præeſſe Deum & leges: qui autem hominem præeſſe jubet, adjungit & beſtiam; libido quippe talis eſt, atque obliquos agit etiam viros optimos, qui ſunt in poteſtate; ex quo mens atque appetitus lex eſt." This agrees with the words of the beſt king that is known to have been in the world, proceeding, as is moſt probable, from a ſenſe of the paſſions that reigned in his own breaſt; "Man being in honour, hath no underſtanding, but is like to the beaſt that periſheth." This ſhews that ſuch as deny that kings do reign by law, or that laws may be put upon kings, do equally ſet themſelves againſt the opinions of wiſe men, and the word of God: and our author, having found that learning made the Grecians ſeditious, may reaſonably doubt, that religion may make others worſe; ſo as none will be fit ſubjects of his applauded government, but thoſe who have neither religion nor learning; and that it cannot be introduced till both be extinguiſhed.

SECT. 10.

Ariſt. polit. l. iii. c. 12.

Ariſtotle having declared his mind concerning government, in the books expreſly written on that ſubject, whatſoever is ſaid by the bye in his moral diſcourſes, muſt be referred to and interpreted by the other; and if he ſaid (which I do not find), that monarchy is the beſt form of government, and a popular ſtate the worſt, he cannot be thought to have meant otherwiſe, than that thoſe nations were the moſt happy, who had ſuch a man as he thinks fit to be made a monarch; and thoſe the moſt unhappy, who neither had ſuch a one, nor a few, that any way excelled the reſt; but all being equally brutiſh, muſt take upon them the government they were unable to manage: for he does no-where admit any other end of juſt and civil government, than the good of the governed; nor any advantage due to one or a few perſons, unleſs for ſuch virtues as conduce to the common good of the ſociety. And as our author thinks learning makes men ſeditious, Ariſtotle alſo acknowledges, that thoſe who have underſtanding and courage, which may be taken for learning, or the effect of it, will never endure the government of one or a few that do not excel them in virtue; but no-where diſpraiſes a popular government, unleſs the multitude be compoſed of ſuch as are barbarous, ſtupid, lewd, vicious, and uncapable of the happineſs for which governments are inſtituted; who cannot

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live to themſelves, but, like a herd of beaſts, muſt be brought under the dominion of another; or who, having amongſt themſelves ſuch an excellent perſon as is above deſcribed, will not ſubmit to him, but either kill, baniſh, or bring him to be equal with others, whom God had made to excel all. I do not trouble myſelf, or the reader, with citing here or there a line out of his books, but refer myſelf to thoſe who have peruſed his moral and political writings, ſubmitting to the ſevereſt cenſures, if this be not the true ſenſe of them; and that virtue alone, in his opinion, ought to give the pre-eminence. And as Ariſtotle, following the wiſe men of thoſe times, ſhews us how far reaſon, improved by meditation, can advance in the knowledge and love of that which is truly good; ſo we may in Filmer guided by Heylin, ſee an example of corrupted chriſtians, extinguiſhing the light of religion by their vices, and degenerating into beaſts, whilſt they endeavour to ſupport the perſonal intereſt of ſome men, who, being raiſed to dignities by the conſent of nations, or by unwarrantable ways and means, would caſt all the power into the hands of ſuch as happen to be born in their families; as if governments had not been inſtituted for the common good of nations, but only to increaſe their pride, and foment their vices; or that the care and direction of a great people were ſo eaſy a work, that every man, woman, or child, how young, weak, fooliſh, or wicked ſoever, may be worthy of it, and able to manage it.

SECT. XI.

Liberty produceth virtue, order, and ſtability: ſlavery is accompanied with vice, weakneſs, and miſery.

OUR author's judgment, as well as inclinations to virtue, are manifeſted in the preference he gives to the manners of the Aſſyrians, and other eaſtern nations, before the Grecians and Romans: whereas the firſt were never remarkable for any thing, but pride, lewdneſs, treachery, cruelty, cowardice, madneſs, and hatred to all that is good, whilſt the others excelled in wiſdom, valour, and all the virtues that deſerve imitation. This was ſo well obſerved by St. Auguſtin, that he brings no ſtronger argument to prove, that God leaves nothing that is good in man unrewarded, than that he gave the dominion of the beſt part of the world to the Romans, who in moral virtues excelled all other nations. And I think no example can be alledged of a free people that has ever been conquered by an abſolute monarch, unleſs he did incomparably ſurpaſs them in riches and ſtrength; whereas many great kings have been overthrown by ſmall republics: and the ſucceſs being conſtantly the ſame, it cannot be attributed to fortune, but muſt neceſſarily be the production of virtue and good order. Machiavel, diſcourſing of theſe matters, finds virtue to be ſo eſſentially neceſſary to the eſtabliſhment and preſervation of liberty, that he thinks it impoſſible for a corrupted people to ſet up a good government, or

De civ. Dei.

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for a tyranny to be introduced, if they be virtuous; and makes this *concluſion, "That where the matter (that is, the body of the people) "is not corrupted, tumults and diſorders do no hurt; and where it is "corrupted, good laws do no good:" which being confirmed by reaſon and experience, I think no wiſe man has ever contradicted him. SECT. II.

But I do not more wonder, that Filmer ſhould look upon abſolute monarchy to be the nurſe of virtue, tho' we ſee they did never ſubſiſt together, than that he ſhould attribute order and ſtability to it; whereas order doth principally conſiſt in appointing to every one his right place, office, or work; and this lays the whole weight of the government upon one perſon, who very often does neither deſerve nor is able to bear, the leaſt part of it. Plato, Ariſtotle, Hooker, and (I may ſay, in ſhort) all wiſe men have held, that order required, that the wiſeſt, beſt, and moſt valiant men, ſhould be placed in the offices where wiſdom, virtue, and valour, are requiſite. If common ſenſe did not teach us this, we might learn it from the ſcripture. When God gave the conduct of his people to Moſes, Joſhua, Samuel, and others, he endowed them with all the virtues and graces that were required for the right performance of their duty. When the Iſraelites were oppreſſed by the Midianites, Philiſtines, and Ammonites, they expected help from the moſt wiſe and valiant. When Hannibal was at the gates of Rome, and had filled Italy with fire and blood, or when the Gauls overwhelmed that country with their multitudes and fury, the ſenate and people of Rome put themſelves under the conduct of Camillus, Manlius, Fabius, Scipio, and the like; and when they failed to chuſe ſuch as were fit for the work to be done, they received ſuch defeats as convinced them of their error. But if our author ſay true, order did require, that the power of defending the country ſhould have been annexed as an inheritance to one family, or left to him that could get it, and the exerciſe of all authority committed to the next in blood, tho' the weakeſt of women, or the baſeſt of men.

The like may be ſaid of judging, or doing of juſtice; and it is abſurd to pretend, that either is expected from the power, not the perſon, of the monarch; for experience doth too well ſhew how much all things halt in relation to juſtice or defence, when there is a defect in him that ought to judge us, and to fight our battles. But of all things this ought leaſt to be alledged by the advocates for abſolute monarchy, who deny that the authority can be ſeparated from the perſon, and lay it as a fundamental principle, that whoſoever hath it, may do what he pleaſes, and be accountable to no man.

Our author's next work is to ſhew, that ſtability is the effect of this good order. But he ought to have known, that ſtability is then only

* Si puo far queſta concluſione, che dove la materia non e corrota, i tumulti ed altri ſcandali non nuocono: là dove la e corrota le buone leggi non giovano. Machiav. Diſc. ſopra T. Livio, lib. 1. Livy in the admirable preface to his hiſtory has theſe remarkable words, "donec ad hæc tempora, quibus nec vitia noſtra, nec remedia pati poſſumus, perventum eſt." And Tacitus obſerves, "non aliud diſcordantis patriæ remedium fuiſſe, quam ut ab uno "regeretur—neceſſitudo reipublicæ, in qua nullus tunc legibus locus"—Ann. l. i. c. 9. Seneca condemns Brutus's conduct for a like reaſon that Cicero blames Cato, who conſidered himſelf as acting in Plato's republic, and not "in fæce Romuli." Sen. de ben. l. ii. c. 20. The whole chapter is really excellent.

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only worthy of praiſe, when it is in that which is good. No man delights in ſickneſs or pain, becauſe it is long or incurable; nor in ſlavery and miſery, becauſe it is perpetual: much leſs will any man in his ſenſes commend a permanency in vice and wickedneſs. He muſt therefore prove, that the ſtability he boaſts of is in things that are good, or all that he ſays of it ſignifies nothing.

I might leave him here with as little fear, that any man who ſhall eſpouſe his quarrel, will ever be able to remove this obſtacle, as that he himſelf ſhould riſe out of his grave, and do it: but I hope to prove, that of all things under the ſun, there is none more mutable or unſtable than abſolute monarchy; which is all that I diſpute againſt, profeſſing much veneration for that which is mixed, regulated by law, and directed to the public good.

This might be proved by many arguments; but I ſhall confine myſelf to two; the one drawn from reaſon, the other from matters of fact.

Nothing can be called ſtable, that is not ſo in principle and practice, in which reſpect human nature is not well capable of ſtability; but the utmoſt deviation from it that can be imagined, is, when ſuch an error is laid for a foundation as can never be corrected. All will confeſs, that if there be any ſtability in man, it muſt be in wiſdom and virtue, and in thoſe actions that are thereby directed; for in weakneſs, folly, and madneſs, there can be none. The ſtability therefore that we ſeek, in relation to the exerciſe of civil and military powers, can never be found, unleſs care be taken, that ſuch as ſhall exerciſe thoſe powers, be endowed with the qualities that ſhould make them ſtable. This is utterly repugnant to our author's doctrine: he lays, for a foundation, that the ſucceſſion goes to the next in blood, without diſtinction of age, ſex, or perſonal qualities; whereas even he himſelf could not have the impudence to ſay, that children and women (where they are admitted), or fools, madmen, and ſuch as are full of all wickedneſs, do not come to be the heirs of reigning families, as well as of the meaneſt. The ſtability therefore that can be expected from ſuch a government, either depends upon thoſe who have none in themſelves, or is referred wholly to chance, which is directly oppoſite to ſtability.

This would be the caſe, tho' it were (as we ſay) an even wager, whether the perſon would be fit or unfit, and that there were as many men in the world able as unable to perform the duty of a king. But experience ſhewing, that, among many millions of men, there is hardly one that poſſeſſes the qualities required in a king, it is ſo many to one, that he upon whom the lot ſhall fall, will not be the man we ſeek, in whoſe perſon and government there can be ſuch a ſtability as is aſſerted. And that failing, all muſt neceſſarily fail; for there can be no ſtability in his will, laws, or actions, who has none in his perſon.

That we may ſee whether this be verified by experience, we need not ſearch into the dark relations of the Babylonian and Aſſyrian monarchies: thoſe rude ages afford us little inſtruction; and tho' the fragments of hiſtory remaining do ſufficiently ſhew, that all things there were in perpetual fluctuation, by reaſon of the madneſs of their kings,

kings, and the violence of thoſe who tranſported the empire from one place or family to another, I will not much rely upon them, but ſlightly touching ſome of their ſtories, paſs to thoſe that are better known to us. SECT. II.

The kings of thoſe ages ſeem to have lived rather like beaſts in a foreſt, than men joined in civil ſociety: they followed the example of Nimrod the mighty hunter; force was the only law that prevailed, the ſtronger devoured the weaker, and continued in power till he was ejected by one of more ſtrength or better fortune. By this means the race of Ninus was deſtroyed by Belochus. Arbaces rent the kingdom aſunder, and took Media to himſelf. Merodach extinguiſhed the race of Belochus, and was made king: Nabuchodonoſor like a flood overwhelmed all for a time, deſtroyed the kingdoms of Jeruſalem and Egypt, with many others, and found no obſtacle, till his rage and pride turned to a moſt beſtial madneſs: and the Aſſyrian empire was wholly aboliſhed at the death of his grandchild Belſhazzar; and no ſtability can be found in the reigns of thoſe great kings, unleſs that name be given to the pride, idolatry, cruelty, and wickedneſs, in which they remained conſtant. If we examine things more diſtinctly, we ſhall find that all things varied according to the humour of the prince. Whilſt Pharaoh lived, who had received ſuch ſignal ſervices from Joſeph, the Iſraelites were well uſed: but when another roſe up who knew him not, they were perſecuted with all the extremities of injuſtice and cruelty, till the furious king perſiſting in his deſign of exterminating them, brought deſtruction upon himſelf and the nation. Where the like power hath prevailed, it has ever produced the like effects. When ſome great men of Perſia had perſuaded Darius, that it was a fine thing to command, that no man for the ſpace of thirty days ſhould make any petition to God or man, but to the king only, Daniel the moſt wiſe and holy man then in the world muſt be thrown to the lions. When Dan. vi. God had miraculouſly ſaved him, the ſame ſentence was paſſed againſt the princes of the nation. When Haman had filled Ahaſuerus's ears with lyes, all the Jews were appointed to be ſlain; and when the fraud of that villain was detected, leave was given them, with the like precipitancy, to kill whom they pleaſed. When the Iſraelites came to have kings, they were made ſubject to the ſame ſtorms, and always with their blood ſuffered the penalty of their prince's madneſs. When one kind of fury poſſeſſed Saul, he ſlew the prieſts, perſecuted David, and would have killed his brave ſon Jonathan: when he fell under another, he took upon him to do the prieſt's office, pretended to underſtand the word of God better than Samuel, and ſpared thoſe that God had commanded him to deſtroy: upon another whimſy he killed the Gibeonites, and never reſted from finding new inventions to vex the people, till he had brought many thouſands of them to periſh with himſelf, and his ſons, on mount Gilboa. We do not find any king, in wiſdom, valour, and holineſs, equal to David; and yet he, falling under the temptations that attend the greateſt fortunes, brought civil wars, and a plague, upon the nation. When Solomon's heart was drawn away by ſtrange women, he filled the land with idols, and oppreſſed the people with intolerable

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tributes. Rehoboam's folly made that rent in the kingdom which could never be made up. Under his ſucceſſors the people ſerved God, Baal, or Aſhtaroth, as beſt pleaſed him who had the power; and no other marks of ſtability can be alledged to have been in that kingdom, than the conſtancy of their kings in the practice of idolatry, their cruelty to the prophets, hatred to the Jews, and civil wars producing ſuch ſlaughters as are reported in few other ſtories: the kingdom was in the ſpace of about two hundred years poſſeſſed by nine ſeveral families, not one of them getting poſſeſſion otherwiſe than by the ſlaughter of his predeceſſor, and the extinction of his race; and ended in the bondage of the ten tribes, which continues to this day.

He that deſires farther proofs of this point, may ſeek them in the hiſtories of Alexander of Macedon, and his ſucceſſors: he ſeems to have been endowed with all the virtues that nature improved by diſcipline did ever attain, ſo that he is believed to be the man meant by Ariſtotle, who on account of the excellency of his virtues, was by nature framed for a king; and Plutarch aſcribes his conqueſts rather to thoſe, than to his fortune: but even that virtue was overthrown by the ſucceſſes that accompanied it: he burnt the moſt magnificent palace of the world, in a frolick, to pleaſe a mad drunken whore: upon the moſt frivolous ſuggeſtions of eunuchs and raſcals, he killed the beſt and braveſt of his friends; and his valour, which had no equal, not ſubſiſting without his other virtues, periſhed when he became lewd, proud, cruel, and ſuperſtitious; ſo as it may be truly ſaid, he died a coward. His ſucceſſors did not differ from him: when they had killed his mother, wife, and children, they exerciſed their fury againſt one another; and tearing the kingdom to-pieces, the ſurvivors left the ſword as an inheritance to their families, who periſhed by it, or under the weight of the Roman chains.

Plut. in vit. Alex.

When the Romans had loſt that liberty which had been the nurſe of their virtue, and gained the empire in lieu of it, they attained to our author's applauded ſtability. Julius being ſlain in the ſenate, the firſt queſtion was, whether it could be reſtored, or not? and that being decided by the battle of Philippi, the conquerors ſet themſelves to deſtroy all the eminent men in the city, as the beſt means to eſtabliſh the monarchy. Auguſtus gained it by the death of Antonius, and the corruption of the ſoldiers; and he dying naturally, or by the fraud of his wife, the empire was transferred to her ſon Tiberius; under whom the miſerable people ſuffered the worſt effects of the moſt impure luſt, and inhuman cruelty: he being ſtifled, the government went on with much uniformity and ſtability; Caligula, Claudius, Nero, Galba, Otho, Vitellius, regularly and conſtantly did all the miſchief they could, and were not more like to each other in the villainies they committed, than in the deaths they ſuffered. Veſpaſian's more gentle reign did no way compenſate the blood he ſpilt to attain the empire: and the benefits received from Titus's ſhort-lived virtue were infinitely overbalanced by the deteſtable vices of his brother Domitian, who turned all things into the old chanel of cruelty, luſt, rapine, and perfidiouſneſs. His ſlaughter

ter gave a little breath to the gaſping periſhing world; and men might be virtuous under the government of Nerva, Trajan, Antoninus, Aurelius, and a few more; tho' even in their time religion was always dangerous. But when the power fell into the hands of Commodus, Heliogabalus, Caracalla, and others of that ſort, nothing was ſafe but obſcurity, or the utmoſt exceſſes of lewdneſs and baſeneſs. However, whilſt the will of the governor paſſed for a law, and the power did uſually fall into the hands of ſuch as were moſt bold and violent, the utmoſt ſecurity that any man could have for his perſon or eſtate, depended upon his temper; and princes themſelves, whether good or bad, had no longer leaſes of their lives, than the furious and corrupted ſoldiers would give them; and the empire of the world was changeable, according to the ſucceſs of a battle. SECT. II.

Matters were not much mended when the emperors became chriſtians: ſome favoured thoſe who were called "orthodox," and gave great revenues to corrupt the clergy. Others ſupported arianiſm, and perſecuted the orthodox with as much aſperity as the pagans had done. Some revolted, and ſhewed themſelves more fierce againſt the profeſſors of chriſtianity, than they that had never had any knowledge of it. The world was torn in pieces amongſt them, and often ſuffered as great miſeries by their ſloth, ignorance, and cowardice, as by their fury and madneſs, till the empire was totally diſſolved and loſt. That which, under the weakneſs and irregularity of a popular government, had conquered all from the Euphrates to Britain, and deſtroyed the kingdoms of Aſia, Egypt, Macedon, Numidia, and a multitude of others, was made a prey to unknown barbarous nations, and rent into as many pieces as it had been compoſed of when it enjoyed the ſtability that accompanies divine and abſolute monarchy.

The like may be ſaid of all the kingdoms in the world; they may have their ebbings and flowings according to the virtues or vices of princes, or their favourites; but can never have any ſtability, becauſe there is, and can be none in them: or if any exception may be brought againſt this rule, it muſt be of thoſe monarchies only which are mixed and regulated by laws, where diets, parliaments, aſſemblies of eſtates, or ſenates, may ſupply the defects of a prince, reſtrain him if he prove extravagant, and reject ſuch as are found to be unworthy of their office, which are as odious to our author and his followers, as the moſt popular governments, and can be of no advantage to his cauſe.

There is another ground of perpetual fluctuation in abſolute monarchies; or ſuch as are grown ſo ſtrong, that they cannot be reſtrained by law, tho' according to their inſtitution they ought to be, diſtinct from, but in ſome meaſure relating to the inclinations of the monarch, that is, the impulſe of miniſters, favourites, wives, or whores, who frequently govern all things according to their own paſſions or intereſts. And tho' we cannot ſay who were the favourites of every one of the Aſſyrian or Egyptian kings, yet the examples before-mentioned of the different method followed in Egypt before and after the death of Joſeph, and in Perſia whilſt the idolatrous princes, and

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and Haman, or Daniel, Eſther, and Mordecai, were in credit; the violent changes happening thereupon give us reaſon to believe the like were in the times of other kings: and if we examine the hiſtories of later ages, and the lives of princes, that are more exactly known, we ſhall find, that kingdoms are more frequently ſwayed by thoſe who have power with the prince, than by his own judgment: ſo that whoſoever hath to deal with princes concerning foreign or domeſtic affairs, is obliged more to regard the humour of thoſe perſons, than the moſt important intereſts of a prince or people.

I might draw too much envy upon myſelf, if I ſhould take upon me to cite all the examples of this kind that are found in modern hiſtories, or the memoirs that do more preciſely ſhew the temper of princes, and the ſecret ſprings by which they were moved. But as thoſe who have well obſerved the management of affairs in France during the reigns of Francis the Firſt, Henry the Second, Francis the Second, Charles the Ninth, Henry the Third, Henry the Fourth, and Lewis the Thirteenth, will confeſs, that the intereſts of the dukes of Montmorency and Guiſe, Queen Catharine de Medicis, the duke of Epernon, la Foſſeuſe, Madam de Guiche, de Gabriele, d'Entragues, the Marechal d'Ancre, the conſtable de Luines, and the cardinal de Richelieu, were more to be conſidered by thoſe who had any private or public buſineſs to treat at court, than the opinions of thoſe princes, or the moſt weighty concernments of the ſtate; ſo it cannot be denied, that other kingdoms where princes legally have, or wrongfully uſurp the like power, are governed in the like manner; or if it be, there is hardly any prince's reign that will not furniſh abundant proof of what I have aſſerted.

I agree with our author, that "good order and ſtability produce "ſtrength." If monarchy therefore excel in them, abſolute monarchies ſhould be of more ſtrength than thoſe that are limited according to the proportion of their riches, extent of territory, and number of people that they govern; and thoſe limited monarchies in the like proportion more ſtrong than popular governments or commonwealths. If this be ſo, I wonder how a few of "thoſe giddy "Greeks who," according to our author, "had learning enough "only to make them ſeditious," came to overthrow thoſe vaſt armies of the Perſians as often as they met with them; and ſeldom found any other difficulty than what did ariſe from their own countrymen, who ſometimes ſided with the Barbarians. Seditions are often raiſed by a little prating; but when one man was to fight againſt fifty, or a hundred, as at the battles of Salamine, Platea, Marathon, and others, then induſtry, wiſdom, ſkill, and valour, were required; and if their learning had not made them to excel in thoſe virtues, they muſt have been overwhelmed by the prodigious multitudes of their enemies. This was ſo well known to the Perſians, that when Cyrus the younger prepared to invade his brother Artaxerxes he brought together indeed a vaſt army of Aſiatics; but chiefly relied upon the counſel and valour of ten thouſand Grecians, whom he had engaged to ſerve him. Theſe giddy heads, accompanied with good hands, in the great battle near Babylon, found no reſiſtance from Artaxerxes's army;

Plut. vit. Artax.

army; and when Cyrus was killed by accident in the purſuit of the victory they had gained, and their own officers treacherouſly murdered, they made good their retreat into Greece under the conduct of Xenophon, in deſpite of above four hundred thouſand horſe and foot, who endeavoured to oppoſe them. They were deſtitute of horſe, money, proviſions, friends, and all other help, except what their wiſdom and valour furniſhed them; and thereupon relying, they paſſed over the bellies of all the enemies that ventured to appear againſt them in a march of a thouſand miles. Theſe things were performed in the weakneſs of popular confuſion; but Ageſilaus not being ſenſible of ſo great defects, accompanied only with ſix-and-thirty Spartans, and ſuch other forces as he could raiſe upon his perſonal credit, adventured without authority or money to undertake a war againſt that great king Artaxerxes; and having often beaten Pharnabazus and Tiſſaphernes his lieutenants, was preparing to aſſault him in the heart of his kingdom, when he was commanded by the ephori to return for the defence of his own country. SECT. II.

It may in like manner appear ſtrange, that Alexander with the forces of Greece, much diminiſhed by the Phocean, Peloponneſian, Theban, and other inteſtine wars, could overthrow all the powers of the eaſt, and conquer more provinces than any other army ever ſaw; if ſo much order and ſtability were to be found in abſolute monarchies, and if the liberty in which the Grecians were educated did only fit them for ſeditions: and it would ſeem no leſs aſtoniſhing, that Rome and Greece, whilſt they were free, ſhould furniſh ſuch numbers of men excelling in all moral virtues, to the admiration of all ſucceeding ages; and thereby become ſo powerful that no monarchs were able to reſiſt them; and that the ſame countries ſince the loſs of their liberty, have always been weak, baſe, cowardly, and vicious, if the ſame liberty had not been the mother and nurſe of their virtue, as well as the root of their power.

It cannot be ſaid that Alexander was a monarch in our author's ſenſe; for the power of the Macedonian kings was ſmall. Philip confeſſed the people were freemen, and his ſon found them to be ſo, when his fortune had overthrown his virtue, and he fell to hate and fear that generoſity of ſpirit which it creates. He made his conqueſts by it, and loved it as long as he deſerved to be loved. His ſucceſſors had the ſame fortune: when their hearts came to be filled with barbaric pride, and to delight only in rendering men ſlaves, they became weak and baſe, and were eaſily overthrown by the Romans, whoſe virtue and fortune did alſo periſh with their liberty. All the nations they had to deal with, had the ſame fate. They never conquered a free people without extreme difficulty: they received many great defeats, and were often neceſſitated to fight for their lives againſt the Latins, Sabines, Tuſcans, Samnites, Carthaginians, Spaniards; and in the height of their power found it a hard work to ſubdue a few poor Etolians: but the greateſt kings were eaſily overcome. When Antiochus had inſolently boaſted that he would cover Greece and Italy with the multitude of his troops, Quintius Flaminius ingeniouſly compared his army of Perſians, Chaldeans, Syrians, Meſopotamians, Cappadocians, Arabians, and other baſe Aſiatic

Plut. in vit. Q. Flamin.

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Aſiatic ſlaves, to a ſupper ſet before him by a Grecian friend, which ſeeming to be of ſeveral ſorts of veniſon, was all cut out of one hog, variouſly dreſſed; and not long after was as eaſily ſlaughtered as the hog had been. The greateſt danger of the war with Mithridates was to avoid his poiſons and treacheries; and to follow him through the deſerts where he fled. When Lucullus with leſs than twenty thouſand men had put Tigranes with two hundred thouſand to flight, the Roman ſoldiers, who for a while had purſued the chace, ſtood ſtill on a ſudden, and fell into loud laughter at themſelves for uſing their arms againſt ſuch wretched cowardly ſlaves. If this be not enough to prove the falſhood of our author's propoſition, I deſire it may be conſidered, whether good order or ſtability be wanting in Venice: whether Tuſcany be in a better condition to defend itſelf ſince it fell under the power of the Medices, or when it was full of free cities: whether it were an eaſy work to conquer Switzerland: whether the Hollanders are of greater ſtrength ſince the recovery of their liberty, or when they groaned under the yoke of Spain: and laſtly, whether the intire conqueſt of Scotland and Ireland, the victories obtained againſt the Hollanders when they were in the height of their power, and the reputation to which England did riſe in leſs than five years after 1648. be good marks of the inſtability, diſorder, and weakneſs of free nations: and if the contrary be true, nothing can be more abſurdly falſe than our author's aſſertion.

Plut. in vit. Lucul.

SECT. XII.

The glory, virtue, and power, of the Romans began and ended with their liberty.

AMONG many fine things propoſed by our author, I ſee none more to be admired, or that better declares the ſoundneſs of his judgment, than that he is only pleaſed with the beginning and end of the Roman empire; and ſays, "that their time of liberty" (between thoſe two extremes) "had nothing of good in it, but that it was of "ſhort continuance:" whereas I dare affirm, that all that was ever deſirable, or worthy of praiſe and imitation in Rome, did proceed from its liberty, grow up, and periſh with it: which I think will not be contradicted by any, but thoſe who prefer the moſt ſordid vices before the moſt eminent virtues; who believe the people to have been more worthily employed by the Tarquins in cleanſing jakes and common ſewers, than in acquiring the dominion of the beſt part of mankind; and account it better for a people to be oppreſſed with hard labour under a proud maſter in a ſteril, unhealthy ten-mile territory, than to command all the countries that lie between the Euphrates and Britain. Such opinions will hardly find any better patrons than Filmer and his diſciples, nor the matters of fact, as they are repreſented,

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be denied by any that know the hiſtories of thoſe times. Many Romans may have had ſeeds of virtue in them, whilſt in the infancy of that city they lived under kings; but they brought forth little fruit. Tarquin ſurnamed the Proud, being a Grecian by extraction, had perhaps obſerved, that the virtue of that nation had rendered them averſe to the divine government he deſired to ſet up; and having by his well-natur'd Tullia poiſoned his own brother her huſband, and his own wife her ſiſter, married her, killed her father, and ſpared none that he thought able to oppoſe his deſigns, to finiſh the work, he butchered the ſenate, with ſuch as ſeemed moſt eminent among the people, and like a moſt pious father endeavoured to render the city deſolate: during that time they who would not be made inſtruments of thoſe villainies were obliged for their own ſafety to conceal their virtues; but, he being removed, they ſhined in their glory. Whilſt he reigned, Brutus, Valerius, Horatius, Herminius, Lartius, and Coriolanus, lay hid and unregarded; but when they came to fight for themſelves, and to employ their valour for the good of their country, they gave ſuch teſtimonies of bravery, as have been admired by all ſucceeding ages; and ſettled ſuch a diſcipline, as produced others like to them, or more excellent than they, as long as their liberty laſted. In two hundred and ſixty years that they remained under the government of kings, tho' all of them, the laſt only excepted, were choſen by the ſenate and people, and did as much to advance the public ſervice as could reaſonably be expected from them, their dominion hardly extended ſo far as from London to Hounſlow: but in little more than three hundred years after they recovered their liberty, they had ſubdued all the warlike nations of Italy, deſtroyed vaſt armies of the Gauls, Cimbri, and Germans, overthrown the formidable power of Carthage, conquered the Ciſalpine and Tranſalpine Gauls, with all the nations of Spain, notwithſtanding the ferocity of the one and the more conſtant valour of the other, and the prodigious multitudes of both: they had brought all Greece into ſubjection, and by the conqueſt of Macedon the ſpoils of the world to adorn their city; and found ſo little difficulty in all the wars that happened between them and the greateſt kings after the death of Alexander of Epirus, and Pyrrhus, that the defeats of Syphax, Perſeus, Antiochus, Pruſias, Tigranes, Ptolemy, and many others, did hardly deſerve to be numbered amongſt their victories. SECT. 12.

It were ridiculous to impute this to chance, or to think, that fortune which of all things is the moſt variable, could for ſo many ages continue the ſame courſe, unleſs ſupported by virtue; or to ſuppoſe, that all theſe monarchies, which are ſo much extolled, could have been deſtroyed by that commonwealth, if it had wanted ſtrength, ſtability, virtue, or good order. The ſecret counſels of God are impenetrable; but the ways by which he accompliſhes his deſigns are often evident: when he intends to exalt a people, he fills both them and their leaders with the virtues ſuitable to the accompliſhment of his end; and takes away all wiſdom and virtue from thoſe he reſolves to deſtroy. The pride of the Babylonians and Aſſyrians fell thro' the baſeneſs of Sardanapalus; and the great city was taken while Belſhazzar lay drunk amongſt his whores: the

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the empire was tranſported to the Perſians and Grecians by the valour of Cyrus, Alexander, and the brave armies that followed them. Hiſtories furniſh us with innumerable examples of this kind: but I think none can be found of a cowardly, weak, effeminate, fooliſh, ill-diſciplin'd people, that have ever ſubdued ſuch as were eminent in ſtrength, wiſdom, valour, and good diſcipline; or that theſe qualities have been found or ſubſiſted any-where, unleſs they were cultivated and nouriſhed by a well ordered government. If this therefore was found among the Romans, and not in the kingdoms they overthrew, they had the order and ſtability which the monarchies had not; and the ſtrength and virtue by which they obtained ſuch ſucceſs was the product of them. But if this virtue, and the glorious effects of it, did begin with liberty, it did alſo expire with the ſame. The beſt men that had not fallen in battle were gleaned up by the proſcriptions, or circumvented for the moſt part by falſe and frivolous accuſations. Mankind is inclined to vice, and the way to virtue is ſo hard, that it wants encouragement; but when all honours, advantages, and preferments, are given to vice, and deſpiſed virtue finds no other reward than hatred, perſecution, and death, there are few who will follow it. Tacitus well deſcribes the ſtate of the empire, when the power was abſolutely fallen into the hands of one: "Italia novis cladibus, vel poſt longam ſeculorum ſeriem repetitis, afflicta; urbs incendiis vaſtata, conſumtis antiquiſſimis delubris, ipſo capitolio civium manibus incenſo; pollutæ ceremoniæ; magna adulteria; plenum exiliis mare; infecti cædibus ſcopuli; atrocius in urbe ſævitum; nobilitas, opes, omiſſi vel geſti honores pro crimine, & ob virtutes certiſſimum exitium." His following words ſhew, that the rewards of theſe abominations were not leſs odious than the things themſelves: the higheſt dignities were beſtowed upon the "delatores," who were a kind of rogues like to our Iriſh witneſſes, or thoſe that by a new coined word we call "trepanners." This is not a picture drawn by a vulgar hand, but by one of the beſt painters in the world; and being a model that ſo much pleaſes our author, it is good to ſee what it produced. The firſt fruit was ſuch an intire degeneracy from all good, that Rome may be juſtly ſaid never to have produced a brave man ſince the firſt age of her ſlavery. Germanicus and Corbulo were born "expirante libertate;" and the recompence they received did ſo little encourage others to follow their example, that none have been found in any degree like to them; and thoſe of the moſt noble families applied themſelves to ſleep, lazineſs, and luxury, that they might not be ſuſpected to be better than their maſters. Thraſeas, Soranus, and Helvidius, were worthy men, who reſolved to perſiſt in their integrity, tho' they ſhould die for it: but that was the only thing that made them eminent; for they were of unknown families, not Romans by birth, nor ever employ'd in war: and thoſe emperors who did arrive to any degree of virtue, were Spaniards, Gauls, Africans, Thracians, and of all nations, except Romans. The patrician and plebeian families, which for many ages had filled the world with great commanders, and ſuch as excelled in all virtues, being thus extinguiſhed or corrupted, the common people fell into the loweſt degree of baſeneſs: "Plebs ſordida circo & theatris ſueta." That people which in magnanimity

C. Tacit. hiſt. l. i. c. 2.

C Tacit. hiſt. l. i. c. 4.

nanimity ſurpaſſed all that have been known in the world; who never found any enterprize above their ſpirit to undertake, and power to accompliſh, with their liberty loſt all their vigour and virtue. They who by their votes had diſpoſed of kingdoms and provinces, fell to deſire nothing but to live and ſee plays. SECT. 12.

—— Duas tantum res anxius optat,
Panem & Circenſes.—— Juven. Sat. x. ver. 80.

Whether their emperors were good or bad, they uſually rejoiced at their death, in hopes of getting a little money or victuals from the ſucceſſor. Tho' the empire was by this means grown weak and bloodleſs, yet it could not fall on a ſudden: ſo vaſt a body could not die in a moment: all the neighbouring nations had been ſo much broken by their power, that none was able to take advantage of their weakneſs; and life was preſerved by the ſtrength of hungry barbarians, allured by the greatneſs of the pay they received to defend thoſe, who had no power left to defend themſelves. This precarious and accidental help could not be durable. They who for a while had been contented with their wages, ſoon began to think it fit for them rather to fight for themſelves, than for their weak maſters; and thereupon fell to ſet up emperors depending on themſelves, or to ſeize upon the naked provinces, where they found no other difficulty than to contend with other ſtrangers, who might have the like deſign upon the ſame. Thus did the armies of the eaſt and weſt ſet up emperors at their pleaſure; and tho' the Goths, Vandals, Huns, Sueves, Alans, and others, had cruel wars among themſelves, yet they feared and ſuffered little or nothing from the Romans. This ſtate of things was ſo ſoon obſerved, that in the beginning of Tiberius's reign they who endeavoured to excite the Gauls to take arms, uſed no other arguments than ſuch as were drawn from the extreme weakneſs of the Romans, "Quam inops Italia, plebs urbana imbellis, "nihil in exercitibus validum præter externum." C. Tacit. an. iii. c. 40. It was evident, that after the battles of Philippi and Actium, the ſtrength of the Roman armies conſiſted of ſtrangers; and even the victories that went under their name were gained by thoſe nations which in the time of their liberty they had ſubdued. They had nothing left but riches gathered out of their vaſt dominions; and they learned by their ruin, that an empire acquired by virtue could not long be ſupported by money. They who by their valour had arrived at ſuch a height of glory, power, greatneſs, and happineſs, as was never equalled, and who in all appearance had nothing to fear from any foreign power, could never have fallen, unleſs their virtue and diſcipline had decayed, and the corruption of their manners had excited them to turn their victorious ſwords into their own bowels. Whilſt they were in that flouriſhing condition, they thought they had nothing more to deſire than continuance: but if our author's judgment is to be followed, there was "nothing of good in it, except the ſhortneſs of its con-"tinuance." They were beholden to thoſe who wrought the change; they were the better for the battles of Pharſalia, Philippi, Munda, and Actium; the deſtruction of two thirds of the people, with the

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ſlaughter of all the moſt eminent men among them was for their advantage: the proſcriptions were wholſome remedies: Tacitus did not underſtand the ſtate of his own country, when he ſeems to be aſhamed to write the hiſtory of it, "Nobis in arcto & inglorius labor;" when inſtead of ſuch glorious things as had been atchieved by the Romans, whilſt either the ſenate, or the common people, prevailed, he had nothing left to relate, but "fæva juſſa, continuas accuſationes, fallaces "amicitias, perniciem innocentium:" they enjoyed nothing that was good from the expulſion of the Tarquins to the re-eſtabliſhment of divine abſolute monarchy in the perſons of thoſe pious fathers of the people, Tiberius, Caligula, Claudius, Nero, Galba, Otho, Vitellius, &c. There was no virtue in the Junii, Horatii, Cornelii, Quintii, Decii, Manlii; but the generous and tender-hearted princes before-mentioned were perfect examples of it: whilſt annual magiſtrates governed, there was no ſtability; Sejanus, Macro, and Tigellinus, introduced good order: virtue was not eſteemed by the antient ſenate and people; Meſſalina, Agrippina, Poppæa, Narciſſus, Pallas, Vinnius, and Laco, knew how to put a juſt value upon it: the irregularities of popular aſſemblies, and want of prudence in the ſenate, were repaired by the temperate proceedings of the German, Pannonian, and eaſtern armies, or the modeſt diſcretion of the pretorian bands: the city was delivered by them from the burden of governing the world, and for its own good frequently plundered, fired, and at laſt, with the reſt of deſolated Italy, and the nobleſt provinces of Europe, Aſia, and Africa, brought under the yoke of the moſt barbarous and cruel nations. By the ſame light we may ſee, that thoſe who endeavoured to perpetuate the miſery of liberty to Rome, or loſt their lives in the defence of it, were the worſt, or the moſt fooliſh of men; and that they were the beſt who did overthrow it. This rectifies all our errors; and if the higheſt praiſes are due to him that did the work, the next are well deſerved by thoſe who periſhed in attempting it: and if the ſons of Brutus, with their companions the Vitellii and Aquilii, Claudius Appius the Decemvir, thoſe that would have betrayed the city to Porſenna; Spurius Melius, Spur. Caſſius, Manlius Capitolinus, Saturninus, Catiline, Cethegus, Lentulus, had been as fortunate as Julius Cæſar, they might as well have deſerved an apotheoſis. But if all this be falſe, abſurd, beſtial, and abominable, the principles that neceſſarily lead us to ſuch concluſions are ſo alſo; which is enough to ſhew, that the ſtrength, virtue, glory, wealth, power, and happineſs of Rome, proceeding from liberty, did riſe, grow, and periſh with it.

Annal. l. iv. c. 32.

c. 33.

SECT.

SECT. XIII.

There is no diſorder or prejudice in changing the name or number of magiſtrates, whilſt the root and principle of their power continues intire.

IN the next place, our author would perſuade us, that the Romans were inconſtant, becauſe of their changes from annual conſuls to military tribunes, decemviri, and dictators; and gives the name of ſedition to the complaints made againſt uſury, or the conteſts concerning marriages or magiſtracy: but I affirm,

1. That no change of magiſtracy, as to the name, number, or form, doth teſtify irregularity, or bring any manner of prejudice, as long as it is done by thoſe who have a right of doing it, and he or they who are created continue within the power of the law to accompliſh the end of their inſtitution; many forms being in themſelves equally good, and may be uſed as well one as another, according to times, and other circumſtances.

2. In the ſecond place, it is a rare thing for a city at the firſt to be rightly conſtituted: men can hardly at once foreſee all that may happen in many ages, and the changes that accompany them ought to be provided for. Rome in its foundation was ſubject to theſe defects, and the inconveniences ariſing from them were by degrees diſcovered and remedied. They did not think of regulating uſury, till they ſaw the miſchiefs proceeding from the cruelty of uſurers; or ſetting limits to the proportion of land that one man might enjoy, till the avarice of a few had ſo far ſucceeded, that their riches were grown formidable, and many by the poverty to which they were reduced became uſeleſs to the city. It was not time to make a law, that the plebeians might marry with the patricians, till the diſtinction had raiſed the Patricians to ſuch pride, as to look upon themſelves to have ſomething of divine, and the others to be "inauſpicati" or "profane," and brought the city into danger by that diviſion; nor to make the plebeians capable of being elected to the chief magiſtracies, till they had men able to perform the duties of them. But theſe things being obſerved, remedies were ſeaſonably applied without any bloodſhed or miſchief, tho' not without noiſe and wrangling.

3. All human conſtitutions are ſubject to corruption, and muſt periſh, unleſs they are timely renewed, and reduced to their firſt principles: this was chiefly done by means of thoſe tumults which our author ignorantly blames: the whole people, by whom the magiſtracy had been at firſt created, executed their power in thoſe things which comprehend ſovereignty in the higheſt degree, and brought every one to acknowlege it: there was nothing that they could not do, who firſt conferred the ſupreme honours upon the patricians, and then made the plebeians equal to them. Yet their

CHAP. II. their modeſty was not leſs than their power or courage: and therefore when by the law they might have made a plebeian conſul, they did not chuſe one in forty years; and when they did make uſe of their right in advancing men of their own order, they were ſo prudent, that they cannot be ſaid to have been miſtaken in their elections three times, whilſt their votes were free: whereas, of all the emperors that came in by uſurpation, pretence of blood from thoſe who had uſurped, or that were ſet up by the ſoldiers, or a few electors, hardly three can be named who deſerved that honour, and moſt of them were ſuch as ſeemed to be born for plagues to mankind.

4. He manifeſts his fraud or ignorance in attributing the legiſlative power ſometimes to the ſenate, and ſometimes to the people; for the ſenate never had it. The ſtile of "Senatus cenſuit, populus juſſit," was never altered; but the right of adviſing continuing in the ſenate, that of enacting ever continued in the people.

5. An occaſion of commending abſolute power, in order to the eſtabliſhment of hereditary monarchy, is abſurdly drawn from their cuſtom of creating a dictator in time of danger; for no man was ever created, but ſuch as ſeemed able to bear ſo great a burden, which in hereditary governments is wholly left to chance. Tho' his power was great, it did ariſe from the law; and being confined to ſix months, it was almoſt impoſſible for any man to abuſe it, or to corrupt ſo many of thoſe who had enjoyed the ſame honour, or might aſpire to it, as to bring them for his pleaſure to betray their country: and as no man was ever choſen who had not given great teſtimonies of his virtues, ſo no one did ever forfeit the good opinion conceived of him. Virtue was then honoured, and thought ſo neceſſarily to comprehend a ſincere love and fidelity to the commonwealth, that without it the moſt eminent qualities were reputed vile and odious; and the memory of former ſervices could no-way expiate the guilt of conſpiring againſt it. This ſeeming ſeverity was in truth the greateſt clemency: for tho' our author has the impudence to ſay, that during the "Roman liberty the beſt men thrived worſt, and the worſt beſt," he cannot alledge one example of any eminent Roman put to death (except Manlius Capitolinus) from the expulſion of the Tarquins to the time of the Gracchi, and the civil wars not long after enſuing; and of very few who were baniſhed. By theſe means crimes were prevented; and the temptations to evil being removed, treachery was deſtroyed in the root; and ſuch as might be naturally ambitious, were made to ſee there was no other way to honour and power than by acting virtuouſly.

But leſt this ſhould not be ſufficient to reſtrain aſpiring men, what power ſoever was granted to any magiſtrate, the ſovereignty ſtill remained in the people, and all, without exception, were ſubject to them. This may ſeem ſtrange to thoſe who think the dictators were abſolute, becauſe they are ſaid to have been "ſine provocatione;" but that is to be only underſtood in relation to other magiſtrates, and not to the people, as is clearly proved in the caſe of Q. Fabius, whom Papirius the dictator would have put to death: "Tribunos plebis appello," ſays Fabius Maximus's father, "& provoco ad populum, eumque

T. Liv. l. viii. c. 33.

" que tibi fugienti exercitus tui, fugienti ſenatus judicium, judicem fero; SECT. 13.
" qui certe unus pluſquam tua dictatura poteſt polletque: videro, ceſſu-
" ruſne ſis provocationi, cui Tullus Hoſtilius ceſſit." And tho' the people did rather intercede for Fabius than command his deliverance, that modeſty did evidently proceed from an opinion that Papirius was in the right; and tho' they deſired to ſave Fabius, who ſeems to have been one of the greateſt and beſt men that ever the city produced, they would not enervate that military diſcipline, to which they owed, not only their greatneſs, but their ſubſiſtence; moſt eſpecially when their ſovereign authority was acknowledged by all, and the dictator himſelf had ſubmitted. This right of appeals to the people was the foundation T. Liv. l. i.
of the Roman commonwealth, laid in the days of Romulus, ſubmitted c. 26.
to by Hoſtilius in the caſe of Horatius, and never violated, till the laws and the liberty which they ſupported, were overthrown by the power of the ſword. This is confirmed by the ſpeech of Metellus the tribune, who in the time of the ſecond Carthaginian war, cauſleſly diſliking the proceedings of Q. Fabius Maximus then dictator, in a
public aſſembly of the people ſaid, " Quod ſi antiquus animus plebi T. Liv. l. xxii.
" Romanæ eſſet, ſe audacter laturum de abrogando Q. Fabii imperio; c. 25.
" nunc modicam rogationem promulgaturum, de æquando magiſtri
" equitum & dictatoris jure:" which was done; and that action, which had no precedent, ſhews that the people needed none, and that their power, being eminently above that of all magiſtrates, was obliged to no other rule than that of their own will. Tho' I do therefore grant, that a power like to the dictatorian, limited in time, circumſcribed by law, and kept perpetually under the ſupreme authority of the people, may, by virtuous and well diſciplin'd nations, upon ſome occaſions, be prudently granted to a virtuous man, it can have no relation to our author's monarch, whoſe power is in himſelf, ſubject to no law, perpetually exerciſed by himſelf, and for his own ſake, whether he have any of the abilities required for the due performance of ſo great a work, or be intirely deſtitute of them; nothing being more unreaſonable than to deduce conſequences from caſes, which in ſubſtance and circumſtances are altogether unlike: but to the contrary, theſe examples ſhewing that the Romans, even in the time of ſuch magiſtrates as ſeemed to be moſt abſolute, did retain and exerciſe the ſovereign power, do moſt evidently prove, that the government was ever the ſame remaining in the people, who without prejudice might give the adminiſtration to one or more men, as beſt pleaſed themſelves; and the ſucceſs ſhews, that they did it prudently.

SECT. XIV.

No ſedition was hurtful to Rome, till through their proſperity ſome men gained a power above the laws.

LIttle pains is required to confute our author, who imputes much bloodſhed to the popular government of Rome; for he cannot prove, that one man was unjuſtly put to death, or ſlain, in any ſedition before Publius Gracchus: the foundations of the commonwealth were then ſo ſhaken, that the laws could not be executed; and whatſoever did then fall out ought to be attributed to the monarchy for which the great men began to contend. Whilſt they had no other wars than with neighbouring nations, they had a ſtrict eye upon their commanders, and could preſerve diſcipline among the ſoldiers: but when by the excellence of their valour and conduct the greateſt powers of the world were ſubdued, and, for the better carrying on of foreign wars, armies were ſuffered to continue in the ſame hands longer than the law did direct, ſoldiery came to be accounted a trade, and thoſe who had the worſt deſigns againſt the commonwealth, began to favour all manner of licentiouſneſs and rapine, that they might gain the favour of the legions, who by that means became unruly and ſeditious: it was hard, if not impoſſible, to preſerve a civil equality, when the ſpoils of the greateſt kingdoms were brought to adorn the houſes of private men; and they who had the greateſt cities and nations to be their dependents and clients, were apt to ſcorn the power of the law. This was a moſt dangerous diſeaſe, like to thoſe to which human bodies are ſubject, when they are arrived to that which phyſicians call the athletic habit, proceeding from the higheſt perfection of health, activity, and ſtrength, that the beſt conſtitution by diet and exerciſe can attain. Whoſoever falls into them ſhews, that he had attain'd that perfection; and he who blames that which brings a ſtate into the like condition, condemns that which is moſt perfect among men. Whilſt the Romans were in the way to this, no ſedition did them any hurt: they were compoſed without blood; and thoſe that ſeemed to be the moſt dangerous, produced the beſt laws. But when they were arrived to that condition, no order could do them good, the fatal period ſet to human things was come; they could go no higher:

Lucan. l. i. —"Summiſque negatum
"Stare diu."

And all that our author blames, is not to be imputed to their conſtitution, but their departing from it. All men were ever ſubject to error; and it may be ſaid, that the miſtaken people in the ſpace of about three hundred years did unjuſtly fine or baniſh five or ſix men; but thoſe miſtakes were ſo frankly acknowledged, and carefully repaired by honours beſtowed upon the injured perſons, as appears by

by the examples of Camillus, Livius Salinator, Paulus Emilius, and others, that they deſerve more praiſe than if they had not failed. SECT. 14.

If for the above-mentioned time ſeditions were harmleſs or profitable, they were alſo abſolutely exempted from civil wars. Thoſe of Apulia and Greece were revolts of conquered nations, and can no way fall under that name: but it is moſt abſurdly applied to the ſervile and gladiatorian wars; for the gladiators were ſlaves alſo, and civil wars can be made only by thoſe who are members of the civil ſociety, which ſlaves are not. Thoſe that made the "bellum ſociale," were freemen, but not citizens; and the war they made could not be called civil. The Romans had three ways of dealing with conquered nations.

1. Some were received into the body of the city, "civitate donati," as the Latins by Romulus; the Albans by Hoſtilius; the Privernates, when their embaſſador declared, that no peace could be durable unleſs it were juſt and eaſy; and the ſenate ſaid, "Se viri & liberi vocem "audiviſſe, taleſque dignos eſſe ut Romani fiant;" and the like favour was ſhewn to many others. Liv. l. viii. c. 21.

2. By making leagues with them, as Livy ſays, "Populum Roma- "num devictos bello populos, malle fide & ſocietate habere conjunctos, "quam triſti ſubjectos ſervitio:" of which ſort were the Samnites, who, not liking their condition, joined with Hannibal; and afterwards, under the conduct of the brave Teleſinus, with other nations that lived under the condition of "ſocii," made an unproſperous attempt to deliver themſelves. Lib. xxvi. c. 49.

3. Thoſe who after many rebellions were "in provinciam redacti," as the Capuans, when their city was taken by Appius Claudius, and Q. Fulvius Flaccus.

We often hear of wars made by thoſe of the two latter ſorts; but of none that can be called civil, till the times of Marius, Sylla, and Catiline: and as they are to be eſteemed the laſt ſtrugglings of expiring liberty, when the laws, by which it had ſubſiſted, were enervated; ſo thoſe that happened between Cæſar and Pompey, Octavius and Antonius, with the proſcriptions, triumvirate, and all the miſchiefs that accompanied them, are to be imputed wholly to the monarchy for which they contended, as well as thoſe between Nero, Galba, Otho, Vitellius, and Veſpaſian, that hardly ever ceaſed till the empire was aboliſhed; for the name of a commonwealth continued to the end; and I know not why Tiberius or Nero might not uſe it as well as Sylla or Marius.

Yet if our author be reſolved to impute to popular government all that paſſed before Cæſar made himſelf perpetual dictator, he will find no more than is ſeen in all places. We have known few ſmall ſtates, and no great one free from revolts of ſubjects or allies; and the greateſt empire of the eaſt was overthrown by the rebellion of the Mamalukes their ſlaves. If there is any difference to be obſerved between what happened at Rome, it is chiefly, that whilſt there was any ſhadow of liberty, the ſlaves, gladiators, ſubjects or allies, were always beaten and ſuppreſſed; whereas in the time of the emperors the revolt of a province was ſufficient to give a new maſter to the beſt part of mankind; and he having no more power than was required

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required for a preſent miſchief, was for the moſt part, in a ſhort time, deſtroyed by another. But to pleaſe our author, I will acknowledge a ſecond defect, even that wantonneſs to which he aſcribes all their diſorders; tho' I muſt withal deſire him to conſider from whence wantonneſs doth proceed. If the people of Turky or France did rebel, I ſhould think they were driven to it by miſery, beggary, or deſpair; and could lay wantonneſs only to the charge of thoſe who enjoy much proſperity. Nations that are oppreſſed and made miſerable, may fall into rage, but can never grow wanton. In the time of the Roman emperors, the pretorian cohorts, or the armies that had the liberty of ravaging the richeſt provinces, might be proud of their ſtrength, or grow wanton through the abundance of their enjoyments: the janizaries in later ages may, for the ſame reaſons, have fallen into the like exceſſes; but ſuch as have loſt their liberty are in no danger of them. When all the nobility of Rome was deſtroyed, and thoſe who excelled in reputation or virtue, were fallen in the wars, or by the proſcriptions; when two thirds of the people were ſlain, the beſt cities and colonies burnt, the provinces exhauſted, and the ſmall remains left in them oppreſſed with a moſt miſerable ſlavery, they may have revolted, and ſometimes did, as the Britons, Batavians, and others mentioned in the Roman hiſtory: but they were driven to thoſe revolts by fury and neceſſity, ariſing from the miſeries and indignities they ſuffered under an inſupportable tyranny; and wantonneſs had no part in them. The people of Rome, when they were a little freed from the terror of the ſoldiers, did ſometimes for the ſame reaſons conſpire againſt the emperors; and when they could do no more, expreſſed their hatred by breaking their ſtatues: but after the battles of Pharſalia, Philippi, and the proſcriptions, they never committed any folly through wantonneſs. In the like manner Naples and Sicily have revolted within theſe few years; and ſome who are well acquainted with the ſtate of thoſe kingdoms, think them ready again to do the like; but if it ſhould ſo happen, no man of underſtanding would impute it to wantonneſs. The preſſures under which they groan, have cured them of all ſuch diſeaſes; and the Romans ſince the loſs of their liberty could never fall into them. They may have grown wanton when their authority was reverenced, their virtue admired, their power irreſiſtible, and the riches of the world were flowing in upon them, as it were, to corrupt their manners, by enticing them to pleaſure: but when all that was loſt, and they found their perſons expoſed to all manner of violence from the baſeſt of men; their riches exhauſted by tributes and rapine, whilſt the treaſures of the empire were not ſufficient to ſupply the luxury of their maſters; the miſery they ſuffered, and the ſhame of ſuffering it, with the contemptible weakneſs to which they were reduced, did too ſtrongly admoniſh them, that the vices of wantonneſs belonged only to thoſe who enjoyed a condition far different from theirs; and the memory of what they had loſt, ſharpened the ſenſe of what they felt. This is the ſtate of things which pleaſes our author; and, by praiſing that government, which deprived thoſe who were under it of all that is moſt deſirable in the world, and introduced all that ought to be deteſted,

teſted, he ſufficiently ſhews, that he delights only in that which is moſt abominable, and would introduce his admired abſolute monarchy, only as an inſtrument of bringing vice, miſery, devaſtation, and infamy, upon mankind. SECT. 15.

SECT. XV.

The empire of Rome perpetually decayed, when it fell into the hands of one man.

IN purſuance of his deſign our author, with as much judgment as truth, denies that Rome became miſtreſs of the world under the popular government: "It is not ſo, ſays he, "for Rome began her "empire under kings, and did perfect it under emperors: it did only "increaſe under that popularity: her greateſt exaltation was under "Trajan, and longeſt peace under Auguſtus." For the illuſtration of which, I deſire theſe few things may be conſidered.

1. That the firſt monarchy of Rome was not abſolute: the kings were made by the people without regard to any man's title, or other reaſon than the common good, chuſing him that ſeemed moſt likely to procure it; ſetting up at the ſame time a ſenate conſiſting of a hundred of the moſt eminent men among them; and, after the reception of the Sabines into the city, adding as many more to them, and committing the principal part of the government to their care, retaining the power of making thoſe laws to which the kings who reigned by their command were ſubject, and reſerving to themſelves the judgment of all great matters upon appeal. If any of their kings deſerved to be called a monarch, according to Filmer's definition, it was the laſt Tarquin; for he alone of all their kings reigned not "juſſu populi," but came in by treachery and murder. If he had continued, he had cured the people of all vices proceeding from wantonneſs; but his fartheſt conqueſt was of the ſmall town of Gabii ten miles diſtant from Rome, which he effected by the fraud of his deteſtable ſon; and that being then the utmoſt limit of the Roman empire, muſt deſerve to be called the world, or the empire of it was not gained by their kings. T. Liv. l. ii.

2. The extent of conqueſts is not the only, nor the chief thing that ought to be conſidered in them; regard is to be had to the means whereby they are made, and the valour or force that was employed by the enemy. In theſe reſpects not only the overthrow of Carthage, and the conqueſts of Spain, but the victories gained againſt the Sabines, Latins, Tuſcans, Samnites, and other valiant nations of Italy, who moſt obſtinately defended their liberty, when the Romans had no forces but their own, ſhew more virtue, and deſerve incomparably more praiſe, than the defeats of any nations whatſoever, when they were increaſed in number, riches, reputation, and power, and had many other warlike people inſtructed in their diſcipline, and fighting under their enſigns. But I deny that the Romans did ever make any conſiderable acquiſition after the

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loſs of their liberty. They had already ſubdued all Italy, Greece, Macedon, the iſlands of the Mediterranean Sea, Thracia, Illyrium, Aſia the leſs, Pontus, Armenia, Syria, Egypt, Africa, Gaul, and Spain. The forces of Germany were broken; a bridge laid over the Rhine, and all the countries on this ſide ſubdued. This was all that was ever gained by the valour of their own forces, and that could bring either honour or profit. But I know of no conqueſt made after that time, unleſs the name of conqueſt be given to Caligula's expedition, when he ſaid he had ſubdued the ſea, in making an uſeleſs bridge from Puteoli to Baiæ; or that of the other fool, who entered Rome in triumph, for having gathered ſhells on the ſea-ſhore. Trajan's expedition into the eaſt was rather a journey than a war: he rambled over the provinces that Auguſtus had abandoned as not worth keeping, and others that had nothing to defend them, but ill-armed and unwarlike barbarians: upon the whole matter, he ſeems to have been led only by curioſity; and the vanity of looking upon them as conqueſts, appears in their being relinquiſhed as ſoon as gained. Britain was eaſily taken from a naked and unſkilful, tho' a brave people; hardly kept, and ſhamefully loſt. But tho' the emperors had made greater wars than the commonwealth, vanquiſhed nations of more valour and ſkill than their Italian neighbours, the Grecians or Carthaginians; ſubdued and ſlaughtered thoſe that in numbers and ferocity had exceeded the Cimbri, Gauls, and Teutons, encountred captains more formidable than Pyrrhus and Hannibal, it might indeed increaſe the glory of him that ſhould have done it, but could add nothing of honour or advantage to the Roman name: the nobility was extirpated long before, the people corrupted and enſlaved, Italy lay deſolate, ſo as a Roman was hardly to be found in a Roman army, which was generally compoſed of ſuch, as fighting for themſelves or their commander, never thought of any thing leſs than the intereſt of Rome: and as it is impoſſible that what is ſo neglected and betrayed, ſhould be durable, that empire which was acquired by the valour and conduct of the braveſt and beſt diſciplined people of the world, decayed and periſhed in the hands of thoſe abſolute monarchs, who ought to have preſerved it.

3. Peace is deſirable by a ſtate that is conſtituted for it, who contenting themſelves with their own territories, have no deſires of enlarging them: or perhaps it might ſimply deſerve praiſe, if mankind were ſo framed, that a people intending hurt to none could preſerve themſelves: but the world being ſo far of another temper, that no nation can be ſafe without valour and ſtrength, thoſe governments only deſerve to be commended, which by diſcipline and exerciſe increaſe both, and the Roman above all, that excelled in both. Peace therefore may be good in its ſeaſon, and was ſo in Numa's reign: yet two or three ſuch kings would have encouraged ſome active neighbours to put an end to that aſpiring city, before its territory had extended beyond Fidenæ. But the diſcipline that beſt agreed with the temper and deſigns of a warlike people, being renewed by his brave ſucceſſors, the dangers were put on their enemies; and all of them, the laſt only excepted, perſiſting in the ſame way, did reaſonably well

well perform their duty. When they were removed, and the affairs of the city depended no longer upon the temper or capacity of one man, the ends for which the city was conſtituted were vigourouſly purſued, and ſuch magiſtrates annually choſen, as would not long continue in an univerſal peace, till they had gotten the empire to which they aſpir'd, or were by ill fortune brought to ſuch a weakneſs, as to be no longer able to make war. Both of theſe happened in the ſo much magnified reign of Auguſtus. He found the empire ſo great, that all additions might rationally be rejected as uſeleſs or prejudicial; and Italy ſo exhauſted, that wars could only be carried on by the ſtrength of ſtrangers: it was time to lie ſtill, when they had no power to act; and they might do it ſafely, whilſt the reputation gained by former victories preſerved them from foreign invaſions. When Craſſus, Pompey, and Cæſar, who had torn the commonwealth into three monarchies, were killed, and the flower of the Roman nobility and people deſtroyed with them, or by them; when Cato's virtue had proved too weak to ſupport a falling ſtate, and Brutus with Caſſius had periſhed in their noble attempt to reſtore their liberty; when the beſt part of the ſenate had been expoſed for a prey to the vulturs and wolves of Theſſaly, and one hundred and thirty of thoſe who deſerved the hatred of tyrants, and had eſcaped the fury of war, had been deſtroyed by the proſcriptions; when neither captains nor ſoldiers remained in the deſolate city; when the tyrant abhorred and feared all thoſe who had either reputation or virtue, and by the moſt ſubtile arts endeavoured ſo to corrupt or break the ſpirits of the remaining people, that they might not think of their former greatneſs, or the ways of recovering it; we ought not to wonder, that they ceaſed from war. But ſuch a peace is no more to be commended, than that which men have in the grave; as in the epitaph of the marquis Trivultio ſeen at Milan, "Qui nunquam quievit, quieſcit. Tace.' 'This peace is in every wilderneſs: the Turks have eſtabliſhed it in the empty provinces of Aſia and Greece. Where there are no men, or if thoſe men have no courage, there can be no war. Our anceſtors the Britons obſerved, that the peace which in that age the Romans eſtabliſhed in the provinces, conſiſted in the moſt wretched ſlavery and ſolitude: "Miſerrimam ſervitutem pacem appellant." And in another place, "ſolitudinem faciunt, pacem vocant." This is the peace the Spaniards ſettled in their dominions of the Weſt-Indies, by the deſtruction of *forty millions of ſouls: the countries were very quiet, when wild beaſts only were left to fight in them, or a few miſerable wretches, who had neither ſtrength nor courage to reſiſt their violence. This was the peace the Romans enjoyed under Auguſtus: a few of thoſe who made themſelves ſubſervient to his pleaſure, and miniſters of the pnblic calamities, were put into a flouriſhing condition; but the reſt pined, withered, and never recovered. If yet our author will have us to think the liberty and people of Rome obliged to Auguſtus who procured ſuch a peace for them, he ought to remember, that, beſides what they ſuffered in ſettling it, they paid dear for it even in the future; for Italy was thereby ſo weakned, as never to recover any ſtrength or virtue to defend itſelf; but, depend

SECT. 15.

C. Tacit. hiſt. l. iv. c. 17. et Agric. vit. c. 30.

* Barth. de las caſas deſtruyc. de las Indias.

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ing abſolutely upon barbarous nations, or armies compoſed of them, was ravaged and torn in pieces by every invader.

4. That peace only is to be valued, which is accompanied with juſtice; and thoſe governments only deſerve praiſe, who put the power into the hands of the beſt men. This was wholly wanting during the reigns of Auguſtus and his ſucceſſors. The worſt of men gained the ſovereignty by alliance, fraud, or violence, and advanced ſuch as moſt reſembled themſelves. Auguſtus, was worſe in the beginning than in the latter end of his reign; but his bloody and impure ſucceſſor grew every day more wicked as long as he lived: whilſt he ſat upon the rocks at Capreæ with his Chaldeans, he meditated nothing but luſt or miſchief, and had Sejanus and Macro always ready to execute his deteſtable deſigns. Caligula could find none equal to himſelf in all manner of villainies; but favour'd thoſe moſt, who were likeſt to him. Claudius's ſtupidity, drunkenneſs, and ſubjection to the fury of two impudent ſtrumpets and manumiſed ſlaves, proved as hurtful to the empire, as the ſavage fury of his predeceſſor. Tho' Nero was a monſter that the world could not bear, yet the raging ſoldiers killed Galba, and gave the empire to Otho, for no other reaſon, than that he had been the companion of his debauches, and of all men was thought moſt to reſemble him: with them all evils came in like a flood; and their ſucceſſors finding none ſo bad as themſelves, but the favourites, whores, and ſlaves, that governed them, would ſuffer no virtue to grow up; and filled the city with a baſe, lewd, and miſerable rabble, that cared for nothing beyond ſtage-plays and bread. Such a people could not be ſeditious; but Rome had been deſolate, if they had not thus filled it. And tho' this temper and condition of a people may pleaſe our author; yet it was an incurable wound to the ſtate, and in conſequence to the beſt part of the world.

When the city had been burnt by the Gauls, it was ſoon reſtored; the defeats of Ticinum, Trebia, Thraſymene, and Cannæ, were repaired with equal or greater victories: the war of the allies ended in their overthrow: the fury of the gladiators was extinguiſhed with their blood: the commonwealth loſt battles, but was never conquered in any war; and in the end triumphed over all that had contended with them. Whilſt liberty continued, it was the nurſe of virtue; and all the loſſes ſuffered in foreign or civil wars were eaſily recovered: but when liberty was loſt, valour and virtue was torn up by the roots, and the Roman power proceeding from it periſhed.

I have not dwelt ſo long upon this point to expoſe the folly of our author, but to ſhew, that the above-mentioned evils did proceed from a permanent cauſe, which will always produce the like effects; and hiſtories teſtify, that it hath done the ſame in all places. Carthage was rebuilt, after it had been deſtroyed by Scipio, and continued to be a rich city for almoſt a thouſand years; but produced no ſuch men as Amilcar, Aſdrubal, and Hannibal: Cleomenes and Euclidas were the laſt that deſerved to be called Spartans: Athens never had an eminent man, after it felt the weight of the Macedonian yoke: and Philopemen was the laſt of the Achaians. Tho' the commonwealths

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of Italy in later ages, having too much applied themſelves to the acquiſition of money, and wanted that greatneſs of ſpirit which had reigned in their anceſtors, yet they have not been without valour and virtue. That of Piſa was famous for power at ſea, till the Genoeſes overthrew them. Florence had a brave nobility, and a ſtout people. Arezzo, Piſtoia, Cortona, Sienna, and other ſmall towns of Tuſcany, were not without ſtrength, tho' for the moſt part unhappily exerciſed in the factions of Ghibelins and Guelphs, Neri and Bianchi, that divided all Italy; but ſince the introduction of Filmer's divine abſolute monarchy, all power, virtue, reputation, and ſtrength, is utterly periſhed from among them, and no man dares to oppoſe the public miſchiefs. They uſually decide private quarrels by aſſaſſination or poiſon; and in other reſpects they enjoy the happineſs of that peace which is always found within empty walls, and deſolated countries: and if this be according to the laws of God and nature, it cannot be denied, that weakneſs, baſeneſs, cowardice, deſtruction, and deſolation, are ſo likewiſe. Theſe are the bleſſings our well-natured author would confer upon us; but if they were to be eſteemed ſo, I cannot tell why thoſe that felt them, complained ſo much of them. Tacitus, reciting what paſſed in his time, and ſomewhat before (for want of a chriſtian ſpirit) in the bitterneſs of his ſoul, ſays, "Nec unquam atrocioribus populi "Romani cladibus, magiſque juſtis indiciis probatum eſt, non eſſe curæ "Deis ſecuritatem noſtram, eſſe ultionem." Some thought that no puniſhments could be juſtly deſerved by a people that had ſo much favoured virtue; others, that even the gods they adored, envied their felicity and glory; but all confeſſed they were fallen from the higheſt pitch of human happineſs into the loweſt degree of infamy and miſery: and our author being the firſt that ever found they had gained by the change, we are to attribute the diſcovery of ſo great a ſecret to the excellency of his wiſdom. If, ſuſpending my judgment in this point, till it be proved by better authority than his word, I in the mean time follow the opinion of thoſe who think ſlavery doth naturally produce meanneſs of ſpirit, with its worſt effect, flattery, which Tacitus calls "fœdum ſervitutis crimen;" I muſt believe, that the impudence of carrying it to ſuch a height, as to commend nothing in the moſt glorious liberty, that made the moſt virtuous people in the world, but the ſhortneſs of its continuance, and to prefer the tyranny of the baſeſt of men, or worſt of monſters, is peculiar to Filmer; and that their wickedneſs, which had never been equalled, is ſurpaſſed by him, who recommends as the ordinance of God, the principles that certainly produce them.

SECT. 15.

C. Tacit. l. i. c. 3. hiſt.

H. l. i. c. 1.

"But," ſays our author, tho' Rome was for a while miraculouſly "upheld in glory by a greater prudence than its own, yet in a ſhort "time, after manifold alterations, ſhe was ruined by her own hand." But it is abſurd to ſay, that the overthrow of a government, which had nothing of good in it, can be a ruin; or that the glory in which it continued, had nothing of good in it; and moſt of all, that it could be ruined by no hands but its own, if that glory had not been gained, and immediately or inſtrumentally ſupported by ſuch virtue and ſtrength as is worthily to be preferred before all other temporal

CHAP. II. happineſs, and does ever produce it. This ſhews that liars ought to have good memories. But paſſing over ſuch fooliſh contradictions, I deſire to know, how that "prudence, greater than its own" (which, till I am better informed, I muſt think to be inſeparably united to juſtice and goodneſs) came miraculouſly to ſupport a government, which was not only evil in itſelf, as contrary to the laws of God and nature; but ſo perpetually bent againſt that monarchy, which he ſays is according to them, as to hate all monarchs, deſpiſe all that would live under them, deſtroy as many of them as came within their reach; and make a law by which any man was authorized to kill him, who ſhould endeavour to ſet up this divine power among them. Moreover, no human prudence preſerved the Roman glory but their own: the others directly ſet themſelves to oppoſe it, and the moſt eminent fell under it. We know of no prudence ſurpaſſing the human, unleſs it be the divine: but the divine prudence did never miraculouſly exert itſelf, except to bear witneſs to the truth, and to give authority to thoſe that announced it. If therefore the glory of this popular government was miraculouſly ſupported by a more than human prudence, it was good in itſelf; the miracles done in favour of it did teſtify it, and all that our author ſays againſt it is falſe and abominable.

If I lay aſide the word "miraculous," as put in by chance, it will be hard to know how God (who in the uſual courſe of his providence guides all things by ſuch a gentle and undiſcerned power, that they ſeem to go on of themſelves) ſhould give ſuch virtue to this popular government, and the magiſtrates bred up under it, that the greateſt monarchs of the earth were as duſt before them, unleſs there had been an excellency in their diſcipline, far ſurpaſſing that of their enemies; or how that can be called ill in its principle, and ſaid to comprehend no good, which God did ſo gloriouſly ſupport, and no man was ever able to reſiſt. This cannot be better anſwered than by our author's citation, "Suis & ipſa Roma viribus ruit;" that city which had overthrown the greateſt powers of the world muſt, in all appearance, have laſted for ever, if their virtue and diſcipline had not decayed, or their forces been turned againſt themſelves. If our author therefore ſay true, the greateſt good that ever befel the Romans, was the decay of their virtue and diſcipline; and the turning of their own arms againſt themſelves, was not their ruin but their preſervation.

When they had brought the warlike nations of Italy into ſubjection, or aſſociation; often repreſſed the fury of the Gauls, Cimbri, and Teutons; overthrown the wealth, power, and wit, of Carthage ſupported by the ſkill, induſtry, and valour of Hannibal, and his brave relations; almoſt extirpated the valiant Spaniards, who would no other way be ſubdued; defeated Philip, Perſeus, Antiochus, Gentius, Syphax, and Jugurtha; ſtruck an awe into Ptolemy; avoided the ſnares and poiſons of Mithridates; followed him in his flights, revenged his treacheries, and carried their victorious arms beyond his conquered kingdoms to the banks of Tygris; when neither the revolt of their Italian aſſociates, nor the rebellion of their ſlaves led by Spartacus (who in ſkill ſeems to have been equal to Hannibal, and

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above him in courage) could put a ſtop to their victories: when Greece had been reduced to yield to a virtue rather than a power greater than their own, we may well ſay that government was ſupported by a more than human prudence, which led them through virtue to a height of glory, power, and happineſs, that till that day had been unknown to the world, and could never have been ruined, if by the decay of that virtue they had not turned their victorious arms againſt themſelves. That city was a giant that could die by no other hand than his own; like Hercules poiſoned and driven into madneſs, after he had deſtroyed thieves, monſters, and tyrants, and found nothing on the earth able to reſiſt him. The wiſeſt of men in antient times, looking upon this as a point of more than human perfection, thought or feigned to think, that he was deſcended from the gods, and at his death received into their number, tho' perhaps Filmer would prefer a weak, baſe, and effeminate ſlave, before him. The matter will not be much different, if we adhere to the forementioned ſimilitude of the athletic habit; for the danger proceeds only from the perfection of it, and he who diſlikes it, muſt commend that weakneſs and vice which may periſh, but can never be changed into any thing worſe than itſelf, as thoſe that lie upon the ground can never fall. However, this fall of the Romans, which our author, ſpeaking truth againſt his will, calls their ruin, was into that which he recommends as the ordinance of God: which is as much as to ſay, that they were ruined when they fell from their own unnatural inventions to follow the law of God, and of nature; that luxury alſo through which they fell, was the product of their felicity; and that the nations that had been ſubdued by them, had no other way of avenging their defeats, than by alluring their maſters to their own vices: this was the root of their civil wars. When that proud city found no more reſiſtance, it grew wanton. SECT. 15.

———Sævior armis
Luxuria incubuit, victumque ulciſcitur orbem. Lucan.

Honeſt poverty became uneaſy, when honours were given to ill-gotten riches. This was ſo monarchical, that a people infected with ſuch a cuſtom muſt needs fall by it. They who by vice had exhauſted their fortunes, could repair them only by bringing their country under a government that would give impunity to rapine; and ſuch as had not virtues to deſerve advancement from the ſenate and people, would always endeavour to ſet up a man that would beſtow the honours that were due to virtue, upon thoſe who would be moſt abjectly ſubſervient to his will and intereſts. When mens minds are filled with this fury, they ſacrifice the common good to the advancement of their private concernments. This was the temper of Catiline expreſſed by Salluſt, "Luxuria principi gravis, "paupertas vix a privato toleranda;" and this put him upon that deſperate extremity to ſay, "Incendium meum ruina extinguam." Others in the ſame manner being filled with the ſame rage, he could not want companions in his moſt villainous deſigns. It is not long ſince a perſon of the higheſt quality, and no leſs famous for learning and

Salluſt. bel. Catilin.

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and wit, having obſerved the ſtate of England, as it ſtood not many years ago, and that to which it has been reduced ſince the year ſixty, as is thought very much by the advice and example of France, ſaid, that they now were taking a moſt cruel vengeance upon us for all the overthrows received from our anceſtors, by introducing their moſt damnable maxims, and teaching us the worſt of their vices. It is not for me to determine whether this judgment was rightly made or not; for I intend not to ſpeak of our affairs: but all hiſtorians agreeing, that the change of the Roman government was wrought by ſuch means as I have mentioned; and our author acknowledging that change to have been their ruin, as in truth it was, I may juſtly conclude, that the overthrow of that government could not have been a ruin to them, but good for them, unleſs it had been good; and that the power which did ruin it, and was ſet up in the room of it, cannot have been according to the laws of God or nature, for they confer only that which is good, and deſtroy nothing that is ſo; but muſt have been moſt contrary to that good which was overthrown by it.

SECT. XVI.

The beſt governments of the world have been compoſed of monarchy, ariſtocracy, and democracy.

OUR author's cavils concerning I know not what vulgar opinions that democracies were introduced to curb tyranny, deſerve no anſwer; for our queſtion is, whether one form of government be preſcribed to us by God and nature, or we are left according to our own underſtanding, to conſtitute ſuch as ſeem beſt to ourſelves. As for democracy, he may ſay what pleaſes him of it; and I believe it can ſuit only with the convenience of a ſmall town, accompanied with ſuch circumſtances as are ſeldom found. But this no way obliges men to run into the other extreme, inaſmuch as the variety of forms between mere democracy and abſolute monarchy is almoſt infinite: and if I ſhould undertake to ſay, there never was a good government in the world, that did not conſiſt of the three ſimple ſpecies of monarchy, ariſtocracy, and democracy, I think I might make it good. This at the leaſt is certain, that the government of the Hebrews, inſtituted by God, had a judge, the great ſanhedrin, and general aſſemblies of the people: Sparta had two kings, a ſenate of twenty-eight choſen men, and the like aſſemblies: all the Dorian cities had a chief magiſtrate, a ſenate, and occaſional aſſemblies: the Ionian, Athens, and others, had an archon, the areopagi; and all judgments concerning matters of the greateſt importance, as well as the election of magiſtrates, were referred to the people. Rome in the beginning had a king and a ſenate, whilſt the election of kings, and judgments upon appeals, remained in the people

people; afterwards conſuls repreſenting kings, and veſted with equal power, a more numerous ſenate, and more frequent meetings of the people. Venice has at this day a duke, the ſenate of the "pregadi," and the great aſſembly of the nobility, which is the whole city, the reſt of the inhabitants being only "incolæ," not "cives;" and thoſe of the other cities or countries are their ſubjects, and do not participate of the government. Genoa is governed in like manner: Luca not unlike to them. Germany is at this day governed by an emperor, the princes or great lords in their ſeveral precincts, the cities by their own magiſtrates, and by general diets, in which the whole power of the nation reſides, and where the emperor, princes, nobility, and cities, have their places in perſon, or by their deputies. All the northern nations, which, upon the diſſolution of the Roman empire, poſſeſſed the beſt provinces that had compoſed it, were under that form which is uſually called the Gothic polity: they had king, lords, commons, diets, aſſemblies of eſtates, cortez, and parliaments, in which the ſovereign powers of thoſe nations did reſide, and by which they were exerciſed. The like was practiſed in Hungary, Bohemia, Sweden, Denmark, Poland; and if things are changed in ſome of theſe places within few years, they muſt give better proofs of having gained by the change than are yet ſeen in the world, before I think myſelf obliged to change my opinion. SECT. 16.

Some nations, not liking the name of king, have given ſuch a power as kings enjoyed in other places to one or more magiſtrates, either limited to a certain time, or left to be perpetual, as beſt pleaſed themſelves: others, approving the name, made the dignity purely elective. Some have in their elections principally regarded one family as long as it laſted: others conſidered nothing but the fitneſs of the perſon, and reſerved to themſelves a liberty of taking where they pleaſed. Some have permitted the crown to be hereditary, as to its ordinary courſe; but reſtrained the power, and inſtituted officers to inſpect the proceedings of kings, and to take care, that the laws were not violated: of this ſort were the ephori of Sparta, the maires du palais, and afterwards the conſtable of France; the juſticia in Arragon; rijckſhofmeiſter in Denmark; the high-ſteward in England; and in all places ſuch aſſemblies as are before-mentioned under ſeveral names, who had the power of the whole nation. Some have continued long, and it may be always in the ſame form; others have changed it: ſome, being incenſed againſt their kings, as the Romans exaſperated by the villainies of Tarquin, and the Tuſcans by the cruelties of Mezentius, aboliſhed the name of king: others, as Athens, Sicyon, Argos, Corinth, Thebes, and the Latins, did not ſtay for ſuch extremities; but ſet up other governments when they thought it beſt for themſelves, and by this conduct prevented the evils that uſually fall upon nations, when their kings degenerate into tyrants, and a nation is brought to enter into a war by which all may be loſt, and nothing can be gained which was not their own before. The Romans took not this ſalutary courſe; the miſchief was grown up before they perceived, or ſet themſelves againſt it; and when the effects of pride, avarice, cruelty, and luſt, were grown to ſuch a height, that they could no longer be endured, they

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could not free themſelves without a war: and whereas upon other occaſions their victories had brought them increaſe of ſtrength, territory, and glory; the only reward of their virtue in this was, to be delivered from a plague they had unadviſedly ſuffered to grow up among them. I confeſs this was moſt of all to be eſteemed; for if they had been overthrown, their condition under Tarquin would have been more intolerable, than if they had fallen under the power of Pyrrhus or Hannibal; and all their following proſperity was the fruit of their recovered liberty: but it had been much better to have reformed the ſtate after the death of one of their good kings, than to be brought to fight for their lives againſt that abominable tyrant. Our author, in purſuance of his averſion to all that is good, diſapproves this; and, wanting reaſons to juſtify his diſlike, according to the cuſtom of impoſtors and cheats, hath recourſe to the ugly terms of a "back-door, ſedition," and "faction:" as if it were not as juſt for a people to lay aſide their kings when they receive nothing but evil, and can rationally hope for no benefit by them, as for others to ſet them up in expectation of good from them. But if the truth be examined, nothing will be found more orderly than the changes of government, or of the perſons and races of thoſe that governed, which have been made by many nations. When Pharamond's grandſon ſeemed not to deſerve the crown he had worn, the French gave it to Meroveus, who more reſembled him in virtue: in proceſs of time when this race alſo degenerated, they were rejected, and Pepin advanced to the throne; and the moſt remote in blood of his deſcendents having often been preferred before the neareſt, and baſtards before the legitimate iſſue, they were at laſt all laid aſide; and the crown remains to this day in the family of Hugh Capet, on whom it was beſtowed upon the rejection of Charles of Lorrain. In like manner the Caſtilians took Don Sancho ſurnamed the Brave, ſecond ſon to Alphonſo the Wiſe, before Alphonſo el Deſheredado, ſon of the elder brother Ferdinand. The ſtates of Arragon preferred Martin, brother to John the Firſt, before Mary his daughter married to the count de Foix, tho' females were not excluded from the ſucceſſion; and the houſe of Auſtria now enjoys that crown from Joan daughter to Ferdinand. In that and many other kingdoms, baſtards have been advanced before their legitimate brothers. Henry count of Traſtamara, baſtard to Alphonſo the Eleventh king of Caſtile, received the crown as a reward of the good ſervice he had done to his country againſt his brother Peter the Cruel, without any regard had to the houſe of La Cerda deſcended from Alphonſo el Deſheredado, which to this day never enjoyed any greater honour than that of duke de Medina Celi. Not long after, the Portugueſe, conceiving a diſlike of their king Ferdinand, and his daughter married to John king of Caſtile, rejected her and her uncle by the father's ſide, and gave the crown to John a knight of Calatrava, and baſtard to an uncle of Ferdinand their king. About the beginning of this age the Swedes depoſed their king Sigiſmund for being a papiſt, and made Charles his uncle king. Divers examples of the like nature in England have been already mentioned. All theſe tranſportations of crowns were acts performed by aſſemblies of the three eſtates in the ſeveral kingdoms; and theſe

crowns

crowns are to this day enjoyed under titles derived from ſuch as were thus brought in by the depoſition or rejection of thoſe, who according to deſcent of blood had better titles than the preſent poſſeſſors. The acts therefore were lawful and good, or they can have no title at all; and they who made them, had a juſt power ſo to do. SECT. 16.

If our author can draw any advantage from the reſemblance of regality that he finds in the Roman conſuls, and Athenian archons, I ſhall without envy leave him the enjoyment of it; but I am much miſtaken if that do not prove my aſſertion, that thoſe governments "were compoſed of the three ſimple ſpecies:" for if the monarchical part was in them, it cannot be denied that the ariſtocratical was in the ſenate or areopagi, and the democratical in the people. But he ought to have remembered, that if there was ſomething of monarchical in thoſe governments when they are ſaid to have been popular, there was ſomething of ariſtocratical and democratical in thoſe that were called regal; which juſtifies my propoſition on both ſides, and ſhews, that the denomination was taken from the part that prevailed; and if this were not ſo, the governments of France, Spain, and Germany, might be called democracies, and thoſe of Rome and Athens monarchies, becauſe the people have a part in the one, and an image of monarchy was preſerved in the other.

If our author will not allow the caſes to be altogether equal, I think he will find no other difference, than that the conſuls and archons were regularly made by the votes of the conſenting people, and orderly reſigned their power, when the time was expired for which it was given; whereas Tarquin, Dionyſius, Agathocles, Nabis, Phalaris, Cæſar, and almoſt all his ſucceſſors, whom he takes for complete monarchs, came in by violence, fraud, and corruption, by the help of the worſt men, by the ſlaughter of the beſt, and moſt commonly (when the method was once eſtabliſhed) by that of his predeceſſor, who, if our author ſay true, was the father of his country, and his alſo. This was the root and foundation of the only government that deſerves praiſe: this is that which ſtamped the divine character upon Agathocles, Dionyſius and Cæſar, and that had beſtowed the ſame upon Manlius, Marius, or Catiline, if they had gained the monarchies they affected. But I ſuppoſe that ſuch as God has bleſſed with better judgment, and a due regard to juſtice and truth, will ſay, that all thoſe who have attained to ſuch greatneſs as deſtroys all manner of good in the places where they have ſet up themſelves by the moſt deteſtable villainies, came in by a "back-door;" and that ſuch magiſtrates as were orderly choſen by a willing people, were the true ſhepherds who came in by the gate of the ſheepfold, and might juſtly be called the miniſters of God, ſo long as they performed their duty in providing for the good of the nations committed to their charge.

SECT.

SECT. XVII.

Good governments admit of changes in the ſuperſtructures, whilſt the foundations remain unchangeable.

IF I go a ſtep farther, and confeſs the Romans made ſome changes in the outward form of their government, I may ſafely ſay they did well in it, and proſpered by it. After the expulſion of the kings, the power was chiefly in the nobility, who had been leaders of the people; but it was neceſſary to humble them, when they began to preſume too much upon the advantages of their birth; and the city could never have been great, unleſs the plebeians, who were the body of it, and the main ſtrength of their armies, had been admitted to a participation of honours. This could not be done at the firſt: they who had been ſo vilely oppreſt by Tarquin, and haraſſed with making or cleanſing ſinks, were not then fit for magiſtracies, or the command of armies; but they could not juſtly be excluded from them, when they had men who in courage and conduct were equal to the beſt of the patricians; and it had been abſurd for any man to think it a diſparagement to him to marry the daughter of one whom he had obeyed as dictator or conſul, and perhaps followed in his triumph. Rome, that was conſtituted for war, and fought its grandeur by that means, could never have arrived to any conſiderable height, if the people had not been exerciſed in arms, and their ſpirits raiſed to delight in conqueſts, and willing to expoſe themſelves to the greateſt fatigues and dangers to accompliſh them. Such men as theſe were not to be uſed like ſlaves, or oppreſt by the unmerciful hand of uſurers. They who by their ſweat and blood were to defend and enlarge the territories of the ſtate, were to be convinced they fought for themſelves; and they had reaſon to demand a magiſtracy of their own, veſted with a power that none might offend, to maintain their rights, and to protect their families, whilſt they were abroad in the armies. Theſe were the tribunes of the people, made, as they called it, "ſacroſancti" or inviolable; and the creation of them was the moſt conſiderable change that happened till the time of Marius, who brought all into diſorder. The creation or abolition of military tribunes with conſular power, ought to be accounted as nothing; for it imported little whether that authority were exerciſed by two, or by five: that of the decemviri was as little to be regarded, they were intended only for a year; and tho' new ones were created for another, on pretence that the laws they were to frame could not be brought to perfection in ſo ſhort a time, yet they were ſoon thrown down from the power they uſurped, and endeavoured to retain contrary to law: the creation of dictators was no novelty, they were made occaſionally from the beginning, and never otherwiſe than occaſionally, till Julius Cæſar ſubverted all order, and, invading that ſupreme magiſtracy by force, * uſurped the right which belonged to all. This indeed was a mortal change

* Jura omnium in ſe traxit. Suet.

change even in root and principle. All other magiſtrates had been created by the people for the public good, and always were within the power of thoſe that had created them. But Cæſar coming in by force, ſought only the ſatisfaction of his own raging ambition, or that of the ſoldiers, whom he had corrupted to deſtroy their country; and his ſucceſſors governing for themſelves by the help of the like raſcals, perpetually expoſed the empire to be ravaged by them. But whatever opinion any man may have of the other changes, I dare affirm, there are few or no monarchies (whoſe hiſtories are ſo well known to us as that of Rome) which have not ſuffered changes incomparably greater, and more miſchievous, than thoſe of Rome, whilſt it was free. The Macedonian monarchy fell into pieces immediately after the death of Alexander: it is thought he periſhed by poiſon: his wives, children, and mother, were deſtroyed by his own captains: the beſt of thoſe who had eſcaped his fury, fell by the ſword of each other. When the famous Argyraſpides might have expected ſome reward of their labours, and a little reſt in old age, they were maliciouſly ſent into the eaſt by Antigonus to periſh by hunger and miſery, after he had corrupted them to betray Eumenes. No better fate attended the reſt; all was in confuſion, every one followed whom he pleaſed, and all of them ſeemed to be filled with ſuch a rage, that they never ceaſed from mutual ſlaughters till they were conſumed; and their kingdoms continued in perpetual wars againſt each other, till they all fell under the Roman power. The fortune of Rome was the ſame after it became a monarchy: treachery, murder, and fury, reigned in every part; there was no law but force; he that could corrupt an army, thought he had a ſufficient title to the empire: by this means there were frequently three or four, and at one time thirty ſeveral pretenders, who called themſelves emperors; of which number he only reigned that had the happineſs to deſtroy all his competitors; and he himſelf continued no longer than till another durſt attempt the deſtruction of him and his poſterity. In this ſtate they remained, till the waſted and bloodleſs provinces were poſſeſſed by a multitude of barbarous nations. The kingdoms eſtabliſhed by them enjoyed as little peace or juſtice; that of France was frequently divided into as many parts as the kings of Meroveus or Pepin's race had children, under the names of the kingdoms of Paris, Orleans, Soiſſons, Arles, Burgundy, Auſtraſia, and others: theſe were perpetually vexed by the unnatural fury of brothers or neareſt relations, whilſt the miſerable nobility and people were obliged to fight upon their fooliſh quarrels, till all fell under the power of the ſtrongeſt. This miſchief was in ſome meaſure cured by a law made in the time of Hugh Capet, that the kingdom ſhould no more be divided: but the appanages, as they call them, granted to the king's brothers, with the ſeveral dukedoms and earldoms erected to pleaſe them, and other great lords, produced frequently almoſt as bad effects. This is teſtified by the deſperate and mortal factions, that went under the names of Burgundy and Orleans, Armagnac and Orleans, Montmorency and Guiſe: theſe were followed by thoſe of the league, and the wars of the Huguenots: they were no ſooner finiſhed by the

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taking of Rochel, but new ones began by the intrigues of the duke of Orleans, brother to Lewis the Thirteenth, and his mother; and purſued with that animoſity by them, that they put themſelves under the protection of Spain: to which may be added, that the houſes of Condé, Soiſſons, Montmorency, Guiſe, Vendoſme, Angouleme, Bouillon, Rohan, Longueville, Rochfoucault, Epernon, and I think I may ſay every one that is of great eminency in that kingdom, with the cities of Paris, Bourdeaux, and many others, in the ſpace of theſe laſt fifty years, have ſided with the perpetual enemies of their own country.

Again, other great alterations have happened within the ſame kingdom: the races of kings four times wholly changed: five kings depoſed in leſs than 150 years after the death of Charles the Great: the offices of maire du palais, and conſtable, erected and laid aſide: the great dukedoms and earldoms, little inferior to ſovereign principalities, eſtabliſhed and ſuppreſſed: the deciſion of all cauſes, and the execution of the laws, placed abſolutely in the hands of the nobility, their deputies, ſeneſchals, or vice-ſeneſchals, and taken from them again: parliaments ſet up to receive appeals from the other courts, and to judge ſovereignly in all caſes, expreſly to curb them: the power of theſe parliaments, after they had cruſhed the nobility, brought ſo low, that within the laſt twenty years they are made to regiſter, and give the power of laws, to edicts, of which the titles only are read to them; and the general aſſemblies of eſtates, that from the time of Pepin had the power of the nation in their hands, are now brought to nothing, and almoſt forgotten.

Tho' I mention theſe things, it is not with a deſign of blaming them, for ſome of them deſerve it not; and it ought to be conſidered that the wiſdom of man is imperfect, and unable to foreſee the effects that may proceed from an infinite variety of accidents, which according to emergencies, neceſſarily require new conſtitutions, to prevent or cure the miſchiefs ariſing from them, or to advance a good that at the firſt was not thought on: and as the nobleſt work in which the wit of man can be exerciſed, were (if it could be done) to conſtitute a government that ſhould laſt for ever, the next to that is to ſuit laws to preſent exigencies, and ſo much as is in the power of man to foreſee: and he that ſhould reſolve to perſiſt obſtinately in the way he firſt entered upon, or to blame thoſe who go out of that in which their fathers had walked, when they find it neceſſary, does as far as in him lies, render the worſt of errors perpetual. Changes therefore are unavoidable, and the wit of man can go no farther than to inſtitute ſuch, as in relation to the forces, manners, nature, religion, or intereſts of a people, and their neighbours, are ſuitable and adequate to what is ſeen, or apprehended to be ſeen: and he who would oblige all nations at all times to take the ſame courſe, would prove as fooliſh as a phyſician who ſhould apply the ſame medicine to all diſtempers, or an architect that would build the ſame kind of houſe for all perſons, without conſidering their eſtates, dignities, the number of their children or ſervants, the time or climate in which they live, and many other circumſtances; or, which is, if poſſible, more ſottiſh, a general who ſhould obſtinately reſolve

reſolve always to make war in the ſame way, and to draw up his army in the ſame form, without examining the nature, number, and ſtrength of his own and his enemies forces, or the advantages and diſadvantages of the ground. But as there may be ſome univerſal rules in phyſic, architecture, and military diſcipline, from which men ought never to depart; ſo there are ſome in politics alſo which ought always to be obſerved: and wiſe legiſlators adhereing to them only, will be ready to change all others as occaſion may require, in order to the public good. This we may learn from Moſes, who laying the foundation of the law given to the Iſraelites in that juſtice, charity, and truth, which having its root in God is ſubject to no change, left them the liberty of having judges or no judges, kings or no kings, or to give the ſovereign power to high-prieſts or captains, as beſt pleaſed themſelves; and the miſchiefs they afterwards ſuffered, proceeded not ſimply from changing, but changing for the worſe. The like judgment may be made of the alterations that have happened in other places. They who aim at the public good, and wiſely inſtitute means proportionable and adequate to the attainment of it, deſerve praiſe; and thoſe only are to be diſliked, who either fooliſhly or maliciouſly ſet up a corrupt private intereſt in one or a few men. Whoſoever therefore would judge of the Roman changes, may ſee, that in expelling the Tarquins, creating conſuls, abating the violence of uſurers, admitting plebeians to marry with the patricians, rendering them capable of magiſtracies, deducing colonies, dividing lands gained from their enemies, erecting tribunes to defend the rights of the commons, appointing the decemviri to regulate the law, and abrogating their power when they abuſed it, creating dictators and military tribunes with a conſular power, as occaſions required; they acted in the face of the ſun for the good of the public; and ſuch acts having always produced effects ſuitable to the rectitude of their intentions, they conſequently deſerve praiſe. But when another principle began to govern, all things were changed in a very different manner: evil deſigns, tending only to the advancement of private intereſts, were carried on in the dark by means as wicked as the end. If Tarquin when he had a mind to be king, poiſoned his firſt wife and his brother, contracted an inceſtuous marriage with his ſecond by the death of her firſt huſband, murdered her father, and the beſt men in Rome, yet Cæſar did worſe: he favoured Catiline, and his villainous aſſociates; bribed and corrupted magiſtrates; conſpired with Craſſus and Pompey; continued in the command of an army beyond the time preſcribed by law, and turned the arms with which he had been entruſted for the ſervice of the commonwealth, to the deſtruction of it; which was rightly repreſented by his dream, that he had conſtuprated his mother: in the like manner, when Octavius, Antonius, and Lepidus, divided the empire, and then quarrelled among themſelves; and when Galba, Otho, Vitellius, and Veſpaſian, ſet up parties in ſeveral provinces, all was managed with treachery, fraud, and cruelty; nothing was intended but the advancement of one man, and the recompence of the villains that ſerved him: and when the empire had ſuffered infinite calamities by pulling down or rejecting one, and ſetting

SECT. 17.

ting up another, it was for the moſt part difficult to determine who was the worſt of the two; or whether the prevailing ſide had gained or loſt by their victory. The queſtion therefore upon which a judgment may be made to the praiſe or diſpraiſe of the Roman government, before or after the loſs of their liberty, ought not to be, whether either were ſubject to changes, for neither they nor any thing under the ſun were ever exempted from them; but whether the changes that happened after the eſtabliſhment of abſolute power in the emperors, did not ſolely proceed from ambition, and tend to the public ruin: whereas thoſe alterations related by our author concerning conſuls, dictators, decemviri, tribunes, and laws, were far more rare, leſs violent, tending to, and procuring the public good, and therefore deſerving praiſe. The like having been proved by the examples of other kingdoms, and might be farther confirmed by many more, which on account of brevity I omit, is in my opinion ſufficient to manifeſt, that whilſt the foundation and principle of a government remains good, the ſuperſtructures may be changed according to occaſions, without any prejudice to it.

SECT. XVIII.

Xenophon in blaming the diſorders of democracies, favours ariſtocracies, not monarchies.

IN the next place our author introduces Xenophon "diſallowing "popular governments;" cites Rome and Athens as places "where "the beſt men thrived worſt, and the worſt beſt;" and condemns the Romans for making it capital to paſs ſentence "of death, baniſh-"ment, loſs of liberty, or ſtripes, upon any citizen of Rome." But leſt his fraud in this ſhould be detected, he cites no preciſe paſſage of any author, alledges few examples, and thoſe miſtaken; never tells us what that law was, when made, or where to be found; whereas I hope to prove, that he has upon the whole matter abominably prevaricated, and advanced things that he knows to be either impertinent or falſe.

1. To this end we are in the firſt place to conſider, whether Xenophon ſpeaks of popular governments ſimply, or comparatively: if ſimply, it is confeſſed, that a pure democracy can never be good, unleſs for a ſmall town; if comparatively, we muſt examine to what he compares it: we are ſure it was not to abſolute monarchy; there was no ſuch thing amongſt the Greeks eſtabliſhed by law: the little tyrants who had enſlaved their own countries, as Jaſon, Pheræus, Phalaris, and the like, had no pretence to it, and were accounted as the worſt of beaſts: none but ſuch as in all beſtiality were like to them, did ever ſpeak or think well of them: Xenophon's opinion in this point, may be eaſily found out by what paſſed between his maſter Plato and the Sicilian tyrant; and the matter will not be mended by referring to his own experience: he had ſeen the vaſt monarchy of Perſia torn in pieces by the fury of two brothers, and

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more than a million of men brought to fight upon their private quarrel: inſtead of that order, ſtability, and ſtrength which our author aſcribes to abſolute monarchy as the effect of wiſdom and juſtice, he knew, that by filling one man with pride and cruelty, it brought unſpeakable miſeries upon all others, and infected them with all the vices that accompany ſlavery: men lived like fiſhes; the great ones devoured the ſmall; and as appeared by Tiſſaphernes, Pharnabazus, and others with whom he had to deal, the worſt and baſeſt were made to be the greateſt: the ſatrapæ inſulted over thoſe of meaner rank with an inſolence and cruelty that equaled the depth of their ſervile ſubmiſſion to their proud maſter. Luxury and avarice reigned in all: many great nations were made to live for the ſervice of one man, and to foment his vices. This produced weakneſs and cowardice: no number of thoſe ſlaves were able to ſtand againſt a few free Grecians. No man knew this better than Xenophon, who after the death of Cyrus the younger, and the treacherous murder of Clearchus, and other officers that commanded the Greeks who had ſerved him, made his retreat from Babylon to the Helleſpont with ten thouſand foot, and paſſed over the bellies of all that dared to oppoſe him. He would never have ſpent his life in exciting his countrymen to attempt the conqueſt of Aſia, nor perſuaded Ageſilaus to put himſelf at the head of the enterprize, if he had thought there was ſuch admirable order, ſtability, and ſtrength, in that monarchy, and in the Greeks nothing but "giddineſs of ſpirit, and ſo much learning as made them ſeditious:" nor could he, being a wiſe man, and an excellent captain, have conceived ſuch a deſign, if he had not by experience found, that liberty inſpired his countrymen with ſuch ſolid virtue, and produced ſuch ſtability, good order, and ſtrength, that with ſmall numbers of them he might hope to overthrow the vain pomp of the barbarians, and to poſſeſs himſelf of their riches tho' they could bring more than a hundred men to fight againſt one; which deſign being interrupted in his time by domeſtic wars, was ſoon after his death accompliſhed by Alexander. SECT. 18.

But that Xenophon's meaning may be better underſtood, it is good to conſider, that he ſpoke of ſuch governments as were then in uſe among the Greeks; which, tho' mixed, yet took their denomination from the prevailing part: ſo that the Dorians, who placed the power chiefly in the hands of a few choſen men, were ſaid to be governed ariſtocratically; and the Ionians giving more power to the common people, democratically: and he, tho' an Ionian, either through friendſhip to Ageſilaus, converſation with the Spartans, or for other reaſons beſt known to himſelf, preferred the government of Sparta, or ſome other which he thought he could frame, and deſired to introduce, before that of Athens; as Cimon, Thucydides, and many other excellent men of that city, are ſaid to have done: and if I acknowledge they were in the right, and that Athens was more ſubject to diſorder, and had leſs ſtability than Sparta, I think it will be of little advantage to abſolute monarchy

2. The Athenians did baniſh ſome worthy men, and put others to death; but our author, like the devil, never ſpeaking truth, unleſs to turn it into a lye, prevaricates in his report of them. The tempo-

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rary baniſhment which they called "oſtraciſm," was without hurt or diſhonour, never accounted as a puniſhment, nor intended for any other end, than to put a ſtop to the too eminent greatneſs of a man, that might prove dangerous to the city; and ſome excellent perſons who fell under it, were ſoon recalled, and brought home with glory. But I am not ſolicitous whether that reaſon be ſufficient to juſtify it or not: we are upon a general theſis relating to the laws of God and nature; and if the Athenians, by a fancy of their own, did make an imprudent uſe of their liberty, it cannot prejudice the public cauſe. They who make the worſt of it can only ſay, that by ſuch means they, for a time, deprived themſelves of the benefits they might have received from the virtues of ſome excellent men, to the hurt of none but themſelves; and the application of it as an injuſtice done to Themiſtocles is abſolutely falſe: he was a man of great wit, induſtry, and valour, but of uncertain faith, too much addicted to his own intereſt, and held a moſt dangerous correſpondence with the Perſians, who then threatened the deſtruction of Greece. Through envy and ſpite to Ariſtides, and to increaſe his own power, he raiſed dangerous factions in the city: and being ſummoned to render an account of his proceedings, he declined the judgment of his country, fled to their enemies, and juſtly deſerved the ſentence pronounced againſt him. Some among them were unjuſtly put to death, and above all Socrates; but the people, who, deceived by falſe witneſſes, (againſt whom neither the laws of God or man have ever preſcribed a ſufficient defence) had condemned him, did ſo much lament their crime, when the truth was diſcovered to them, that I doubt whether a more righteous judgment had given better teſtimony of their righteous intentions. But our author's impudence appears in the higheſt exceſs in imputing the death of Phocion to the popular ſtate of Athens: their forces had been broken in the Sicilian war; and the city taken, and the principal men ſlain by Lyſander; the remains of the moſt worthy deſtroyed by the thirty tyrants ſet up by him; their ill-recovered liberty overthrown by the Macedonians, and the death of Phocion compaſſed by Polyperchon, who with foreign ſoldiers, ſlaves, vagabonds, and outlaws, overpowered the people.

Plut. in vita Themiſt.

The proceedings of Rome may be more completely juſtified: Coriolanus was duly condemned: he ſet too great a price upon his own valour, and arrogated to himſelf a power in Rome, which would hardly have been endured in Corioli: his violence and pride overbalanced his ſervices; and he that would ſubmit to no law, was juſtly driven from the ſociety which could ſubſiſt only by law. Quintius was not unlike him, and Manlius Capitolinus far worſe than either. Their virtues were not to be conſidered when they departed from them. Conſideration ought to be had of human frailty, and ſome indulgence may be extended to thoſe who commit errors, after having done important ſervices; but a ſtate cannot ſubſiſt, which, compenſating evil actions with good, gives impunity to the moſt dangerous crimes, in remembrance of any ſervices whatever. He that does well, performs his duty, and ought always to do ſo; juſtice and prudence concur in this; and it is no leſs juſt than profitable, that

that every action be conſidered by itſelf, and ſuch a reward or puniſhment allotted to it, as in nature and proportion it doth beſt deſerve. SECT. 18.

This, as I ſuppoſe, is enough for their caſes; but relates not to thoſe of Mamercus, Camillus, Livius Salinator, and Emilius Paulus; their virtue was complete, they were wrongfully ſentenced. But the beſt princes, ſenate, or people, that ever was in the world, by the deceit of evil men, may and have been drawn out of the way of juſtice: yet of all the ſtates that are known to us, none was ever ſo free from crimes of malice and wilful injuſtice; none was ever guilty of ſo few errors as that of Rome; and none did ever give better teſtimonies of repentance, when they were diſcovered, than the Romans did by the veneration they ſhewed to thoſe worthy perſons, and the honours they conferred upon them afterwards. Mamercus was made dictator, to repair the unjuſt mark of infamy laid upon him by the cenſors. Camillus being recalled from his baniſhment, often enjoyed the ſame honour, and died the moſt reverenced man that had ever been in that city. Livius Salinator was not only made conſul after he had been fined, but the people (as it were to expiate the guilt of having condemned him) ſuffered that aſperity of ſpeech and manners, which might have perſuaded ſuch as had been leſs confident of his virtue, and their own, that he deſired to be revenged, tho' it were with the ruin of the city. They dealt in the like manner with Paulus Emilius, repairing the injury of a fine unduly impoſed. Their generoſity in leaving the tribunes in the Forum with their accuſation againſt Scipio Africanus, and following him to celebrate an annual ſacrifice in the capitol, in commemoration of his victory againſt Hannibal, was no leſs admirable than the greatneſs of his mind, who thought his virtue ſhould be ſo well known, that no account ought to be expected from him; which was an error proceeding from a noble root, but not to be borne in a well-governed commonwealth. The laws that aim at the public good, make no diſtinction of perſons; and none can be exempted from the penalties of them, otherwiſe than by approved innocence, which cannot appear without a trial: he that will not bend his mind to them, ſhakes off the equality of a citizen, and uſurps a power above the law, to which no man ſubmits upon any other condition, than that none ſhould be exempted from the power of it. And Scipio being the firſt Roman that thus diſdained the power of the law, I do not know whether the prejudice brought upon the city by ſo dangerous an example, did not outweigh all the ſervices he had done: nevertheleſs the people contented with his retirement to his own houſe, and afterwards convinced of his innocence, would probably (if he had not died in a few months) have brought him back with the honours that fate reſerved for his aſhes.

T. Liv. l. iv. c. 31. l. v. c. 32, 46. l. vi. c. 38. l. vii. c. 1. Liv. l. xxvii. c. 36. & l. xxxix. c. 37. l. xxxix. c. 56. l. xxxviii. c. 51.

I do not at preſent remember any other eminent men, who can be ſaid in any reſpect to have "thrived ill," whilſt the people and ſenate of Rome acted freely; and if this be not ſufficient to clear the point, I deſire to know the names of thoſe "worſt men that thrived beſt." If they may have been judged to thrive, who were frequently advanced to the ſupreme magiſtracies, and enjoyed the chief honours; I find no

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men ſo eminent as Brutus, Publicola, Quintius Cincinnatus, and Capitolinus, the two Fabii ſurnamed Maximi, Corvinus, Torquatus, Camillus, and the like: and if theſe were the worſt men that Rome produced in thoſe ages, valour, wiſdom, induſtry in the ſervice of their country, and a moſt intire love to it, muſt have been the worſt of qualities; and I preſume our author may have thought them ſo, ſince they were invincible obſtacles to the introduction of that divine monarchy which Appius Claudius the decemvir, Manlius Capitolinus, Spurius Caſſius, Sp. Melius, and ſome others, may be thought to have affected.

However, theſe inſtances are not to be underſtood as they are ſimply in themſelves, but comparatively with what has happened in other places under abſolute monarchies: for our inquiry is not after that which is perfect, well knowing that no ſuch thing is found among men; but we ſeek that human conſtitution which is attended with the leaſt, or the moſt pardonable inconveniences. And if we find, that in the ſpace of three hundred years, whilſt the ſenate, people, and legally created magiſtrates, governed Rome, not one worthy man was put to death, not above five or ſix condemned to fines by the beguiled people, and thoſe injuries repaired by the moſt honourable ſatisfaction that could be given; ſo that virtue continued ever flouriſhing; the beſt men that could be found were put into the chief commands, and the city was filled with more excellent men than were ever known to be in any other place: and on the other ſide, if the emperors ſo ſoon as the government was changed, made it their buſineſs to deſtroy the beſt, and ſo far ſucceeded in their deſign, that they left none; and never failed to advance the worſt, unleſs it fell out as to queen Catharine de Medicis, who is ſaid never to have done any good but by miſtake, and ſome few may have proved better than was intended; it will appear, that our author's aſſertions are in the utmoſt degree falſe. Of this we need no better witneſs than Tacitus. The civil wars, and the proſcriptions upon which he touches, are juſtly to be attributed to that monarchy which was then ſetting up, the only queſtion being, who ſhould be the monarch, when the liberty was already overthrown. And if any eminent men eſcaped, it was much againſt the will of thoſe who had uſurped the power: he acknowledges his hiſtories to be a continued relation of the ſlaughter of the moſt illuſtrious perſons, and that in the times of which he writes, virtue was attended with certain deſtruction. After the death of Germanicus, and his eldeſt children, Valerius Aſiaticus, Seneca, Corbulo, and an infinite number more who were thought moſt to reſemble them, found this to be true at the expence of their lives: Nero, in purſuance of the ſame tyrannical deſign, murdered Helvidius and Thraſeas, that he might "tear up virtue by "the roots:" Domitian ſpared none willingly that had either virtue or reputation; and tho' Trajan, with perhaps ſome other, might grow up under him in the remote provinces, yet no good man could eſcape who came under his eye, and was ſo eminent as to be obſerved by him. Whilſt theſe, who were thought to be the beſt men that appeared in the Roman empire, did thrive in this manner, Sejanus, Macro, Narciſſus, Pallas, Tigellinus, Icetus, Vinnius, Laco, and others like to them, had

Ipſam exſcindere virtutem. Tacit. Hiſt. xvi. 21.

had the power of the empire in their hands. Therefore, unleſs mankind has been miſtaken to this day, and that theſe, who have hitherto been accounted the worſt of villains, were indeed the beſt men in the world, and that thoſe deſtroyed by them, who are thought to have been the beſt, were truly the worſt, it cannot be denied, that the beſt men, during the liberty of Rome, thrived beſt; that good men ſuffered no indignity, unleſs by ſome fraud impoſed upon the well-meaning people; and that ſo ſoon as the liberty was ſubverted, the worſt men thrived beſt. The beſt men were expoſed to ſo many calamities and ſnares, that it was thought a matter of great wonder to ſee a virtuous man die in his bed: and if the account were well made, I think it might appear, that every one of the emperors before Titus ſhed more noble and innocent blood than Rome and all the commonwealths in the world have done whilſt they had the free enjoyment of their own liberty. But if any man in favour of our author ſeek to diminiſh this vaſt diſproportion between the two differing ſorts of government, and impute the diſorders that happened in the time of the Gracchi, and others, whilſt Rome was ſtruggling for her liberty, to the government of a commonwealth, he will find them no more to be compared with thoſe that fell out afterwards, than the railings of a turbulent tribune againſt the ſenate, to the villainies and cruelties that corrupted and diſpeopled the provinces from Babylon to Scotland: and whereas the ſtate never failed to recover from any diſorders, as long as the root of liberty remained untouched, and became more powerful and glorious than ever, even after the wars of Marius and Sylla; when that was deſtroyed, the city fell into a languiſhing condition, and grew weaker and weaker, till that, and the whole empire, were ruined by the barbarians. SECT. 18.

3. Our author, to ſhew that his memory is as good as his judgment, having repreſented Rome in the times of liberty as a public ſlaughter-houſe, ſoon after blames the clemency of their laws; whereas it is impoſſible that the ſame city could at the ſame time be guilty of thoſe contrary extremities; and no leſs certain, that it was perfectly free from them both. His aſſertion ſeems to be grounded upon Cæſar's ſpeech (related by Salluſt) in favour of Lentulus and Cethegus, companions of Catiline: but tho' he there endeavoured to put the beſt colour he could upon their cauſe, it ſignified only thus much, that a Roman citizen could not be put to death, without being heard in public; which law will diſpleaſe none that in underſtanding and integrity may not be compared to Filmer, and his followers. It is a folly to extend it farther; for it is eaſily proved, that there was always a power of putting citizens to death, and that it was exerciſed when occaſion required. The laws were the ſame in the time of the kings, and when that office was executed by conſuls, excepting ſuch changes as are already mentioned. The "lex perduellionis," cited by Livy in the caſe of Horatius, who had killed his ſiſter, continued in force from the foundation to the end of that government: the condemnation was to death, the words of the ſentence theſe, "Caput obnubito, infelici arbore reſte ſuſpendito; verberato intra "pomœrium vel extra pomœrium." He was tried by this law upon an appeal made to the people by his father, and abſolved "admiratione

Salluſt. bell. Catilin.

T. Liv. l. i. c. 26.

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Liv. l. ii. c. 4, 5. l. vi. c. 20. l. viii. c. 7. l. ii. c. 59. l. iv. c. 14. 15. l. viii. c. 30-35. Tac. ann. l. xiv. c. 48.

" magis virtutis quam jure cauſæ;" which could not have been, if by the law no citizen might be put to death. The ſons of Brutus were condemned to death in public, and executed with the Aquilii and Vitellii their companions in the ſame conſpiracy: Manlius Capitolinus was put to death by the vote of the people: Titus Manlius by the command of his father Torquatus, for fighting without order: two legions were decimated by Appius Claudius: Spurius Melius refuſing to appear before the dictator, was killed by Servilius Ahala general of the horſe, and pronounced " jure cæſum:" Quintus Fabius was by Papirius the dictator condemned to die, and could not have been ſaved but by the interceſſion and authority of the people. If this be not ſo, I deſire to be informed what the ſenate meant by condemning Nero to be put to death " more majorum," if " more ma- " jorum" no citizen might be put to death: why the conſuls, dictators, military tribunes, decemviri, cauſed rods and axes to be carried before them, as well within as without the city, if no uſe was to be made of them. Were they only vain badges of a power never to be executed; or upon whom was the ſupreme power ſignified by them, to be exerciſed within and without the city, if the citizens were not ſubject to it? It is ſtrange that a man who had ever read a book of matters relating to the affairs of Rome, ſhould fanſy theſe things; or hope to impoſe them upon the world, if he knew them to be fooliſh, falſe, and abſurd. But of all the marks of a moſt ſupine ſtupidity that can be given by a man, I know no one equal to this of our author, who in the ſame clauſe wherein he ſays no citizen could be put to death or baniſhed, adds, that the magiſtrates were upon pain of death forbidden to do it; for if a magiſtrate might be put to death for baniſhing a citizen, or cauſing him to be executed, a citizen might be put to death; for the magiſtrates were not ſtrangers, but citizens. If this was not ſo, he muſt think, that no crime was capital, but the puniſhment of capital crimes; or that no man was ſubject to the ſupreme power, but he that was created for the execution of it. Yet even this will not ſtop the gap; for the law that condemned the magiſtrate to die, could be of no effect, if there were no man to execute it; and there could be none if the law prohibited it, or that he who did it was to die for it: and this goes on to infinity. For if a magiſtrate could not put a citizen to death, I ſuppoſe a citizen could not put to death a magiſtrate; for he alſo is a citizen. So that upon the whole matter we may conclude, that malice is blind, and that wickedneſs is madneſs. It is hard to ſay more in praiſe of popular governments than will reſult from what he ſays againſt them: his reproaches are praiſes, and his praiſes reproaches. As government is inſtituted for the preſervation of the governed, the Romans were ſparing of blood, and are wiſely commended by Livy for it: " Nulli unquam populo mitiores placuere pœnæ;" which gentleneſs will never be blamed, unleſs by thoſe who are pleaſed with nothing ſo much as the fury of thoſe monſters, who with the ruin of the beſt part of mankind, uſurped the dominion of that glorious city. But if the Romans were gentle in puniſhing offences, they were alſo diligent in preventing them: the excellence of their diſcipline led the youth to virtue, and the honours they received for recompence confirmed them

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in it. By this means many of them became laws to themſelves; and they who were not the moſt excellent, were yet taught ſo much of good, that they had a veneration for thoſe they could not equal, which not only ſerved to incite them to do well according to their talents, but kept them in ſuch awe as to fear incurring their ill opinion by any bad action, as much as by the penalty of the law. This integrity of manners made the laws as it were uſeleſs; and, whilſt they ſeemed to ſleep, ignorant perſons thought there were none: but their diſcipline being corrupted by proſperity, thoſe vices came in which made way for the monarchy; and wickedneſs being placed in the throne, there was no ſafety for any but ſuch as would be of the ſame ſpirit, and the empire was ruined by it. SECT. 19.

SECT. XIX.

That corruption and venality which is natural to courts, is ſeldom found in popular governments.

OUR author's next work is, with that modeſty and truth which is natural to him, to impute corruption and venality to commonwealths. He knows that monarchies are exempted from thoſe evils, and has diſcovered this truth from the integrity obſerved in the modern courts of England, France, and Spain, or the more antient of Rome and Perſia: but after many falſhoods in matter of fact, and miſrepreſentations of that which is true, he ſhews that the corruption, venality, and violence, he blames, were neither the effects of liberty, not conſiſtent with it. Cneius Manlius, who with his Aſiatic army brought in the luxury that gave birth to thoſe miſchiefs, did probably follow the looſeneſs of his own diſpoſition: yet the beſt and wiſeſt men of that time knew from the beginning, that it would ruin the city, unleſs a ſtop might be put to the courſe of that evil: but they who had ſeen kings under their feet, and could no longer content themſelves with that equality which is neceſſary among citizens, fomented it as the chief means to advance their ambitious deſigns. Tho' Marius was rigid in his nature, and cared neither for money, nor ſenſual pleaſures; yet he favoured thoſe vices in others, and is ſaid to be the firſt that made uſe of them to his advantage. Catiline was one of the lewdeſt men in the world, and had no other way of compaſſing his deſigns than by rendering others as bad as himſelf: and Cæſar ſet up his tyranny by ſpreading that corruption farther than the others had been able to do; and tho' he, Caligula, and ſome others were ſlain, yet the beſt men found it as impoſſible to reſtore liberty to the city when it was corrupted, as the worſt had done to ſet up a tyranny whilſt the integrity of their manners did continue. Men have a ſtrange propenſity to run into all manner of exceſſes, when plenty of means invite, and there is no power to deter; of which the ſucceeding emperors took advantage, and knowing that even their ſubſiſtence depended upon it, they thought them- Sen. de Ben. l. ii. c. 20.

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themſelves obliged by intereſt as well as inclination to make honours and preferments the rewards of vice: and tho' it be not always true in the utmoſt extent, that all men follow the example of the king; yet it is of very great efficacy: tho' ſome are ſo good, that they will not be perverted; and others ſo bad, that they will not be corrected; yet a great number does always follow the courſe that is favoured and rewarded by thoſe that govern. There were idolaters doubtleſs among the Jews in the days of David and Hezekiah; but they proſpered better under Jeroboam and Ahab: England was not without papiſts in the time of queen Elizabeth; but they thrived much better during the reign of her furious ſiſter. Falſe witneſſes and accuſers had a better trade under Tiberius, who called them "cuſtodes "legum," than under Trajan, who abhorred them; and whores, players, fidlers, with other ſuch vermin, abounded certainly more when encouraged by Nero, than when deſpiſed by Antoninus and Marcus Aurelius. But as every one of theſe manifeſted what he was by thoſe he favoured or puniſhed, and that a man can only be judged by his principles or practices, he that would know whether abſolute monarchies, or mixed governments, do moſt foment or puniſh venality and corruption, ought to examine the principle and practice of both, and compare them one with the other.

As to the principle, the above-mentioned vices may be profitable to private men; but they can never be ſo to the government, if it be popular or mixed: no people was ever the better for that which renders them weak or baſe; and a duly created magiſtracy, governing a nation with their conſent, can have no intereſt diſtinct from that of the public, or deſire to diminiſh the ſtrength of the people, which is their own, and by which they ſubſiſt. On the other ſide, the abſolute monarch, who governs for himſelf, and chiefly ſeeks his own preſervation, looks upon the ſtrength and bravery of his ſubjects as the root of his greateſt danger, and frequently deſires to render them weak, baſe, corrupt, and unfaithful to each other, that they may neither dare to attempt the breaking of the yoke he lays upon them, nor truſt one another in any generous deſign for the recovery of their liberty. So that the ſame corruption which preſerves ſuch a prince, if it were introduced by a people, would weaken, if not utterly deſtroy them.

Again, all things have their continuance from a principle in nature ſuitable to their original: all tyrannies have had their beginnings from corruption. The hiſtories of Greece, Sicily, and Italy, ſhew that all thoſe who made themſelves tyrants in ſeveral places, did it by the help of the worſt, and the ſlaughter of the beſt: men could not be made ſubſervient to their luſts whilſt they continued in their integrity; ſo as their buſineſs was to deſtroy thoſe who would not be corrupted. They muſt therefore endeavour to maintain or increaſe the corruption by which they attain their greatneſs: if they fail in this point, they muſt fall, as Tarquin, Piſiſtratus, and others, have done; but if they ſucceed ſo far, that the vicious part do much prevail, the government is ſecure, tho' the prince may be in danger. And the ſame thing does in great meaſure accidentally conduce to the ſafety of his perſon: for they who for the moſt part are the authors

thors of great revolutions, not being ſo much led by a particular hatred to the man, as by a deſire to do good to the public, ſeldom ſet themſelves to conſpire againſt the tyrant, unleſs he be altogether deteſtable and intolerable, if they do not hope to overthrow the tyranny. SECT. 19.

The contrary is ſeen in all popular and well-mixed governments: they are ever eſtabliſhed by wiſe and good men, and can never be upheld otherwiſe than by virtue: the worſt men always conſpiring againſt them, they muſt fall, if the beſt have not power to preſerve them. Whereſoever therefore a people is ſo governed, the magiſtrates will obviate afar off the introduction of vices, which tend as much to the ruin of their perſons and government, as to the preſervation of the prince and his. This is evidenced by experience. It is not eaſy to name a monarch that had ſo many good qualities as Julius Cæſar, till they were extinguiſhed by his ambition, which was inconſiſtent with them: he knew that his ſtrength lay in the corruption of the people, and that he could not accompliſh his deſigns without increaſing it. He did not ſeek good men, but ſuch as would be for him; and thought none ſufficiently addicted to his intereſts, but ſuch as ſtruck at the performance of no wickedneſs that he commanded: he was a ſoldier according to Cæſar's heart, who ſaid,

" Pectore ſi fratris gladium, juguloque parentis,
" Condere me jubeas, gravidæve in viſcera partu
" Conjugis, invita peragam tamen omnia dextra."
Lucan l. i. v. 376.

And leſt ſuch as were devoted to him ſhould grow faint in villainy, he induſtriouſly inflamed their fury:

——————" Vult omnia certè
" A ſe ſæva peti, vult præmia Martis amari." Ib. l. v. 307.

Having ſpread this poiſon amongſt the ſoldiers, his next work was, by corrupting the tribunes to turn that power to the deſtruction of the people, which had been erected for their preſervation; and pouring the treaſures he had gained by rapine in Gaul into the boſom of Curio, made him an inſtrument of miſchief, who had been a moſt eminent ſupporter of the laws. Tho' he was thought to have affected the glory of ſparing Cato, and with trouble to have found, that he deſpiſed life when it was to be accounted his gift; yet in ſuſpecting Brutus and Caſſius, he ſhewed he could not believe that virtuous men who loved their country could be his friends. Such as carry on the like deſigns with leſs valour, wit, and generoſity of ſpirit, will always be more bitterly bent to deſtroy all that are good, knowing, that the deformity of their own vices is rendered moſt manifeſt, when they are compared with the good qualities of thoſe who are moſt unlike them; and that they can never defend themſelves againſt the ſcorn and hatred they incur by their vices, unleſs ſuch a number can be infected with the ſame, and made to delight in the recompences of iniquity that foment them, as may be able to keep the reſt of the people in ſubjection.

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The ſame thing happens even when the uſurpation is not ſo violent as that of Agathocles, Dionyſius, or the laſt king of Denmark, who in one day by the ſtrength of a mercenary ſoldiery overthrew all the laws of his country: and a lawfully created magiſtrate is forced to follow the ſame ways as ſoon as he begins to affect a power which the laws do not confer upon him. I wiſh I could ſay there were few of theſe; but experience ſhews, that ſuch a proportion of wiſdom, moderation of ſpirit, and juſtice, is required in a ſupreme magiſtrate, to render him content with a limited power, as is ſeldom found. Man is of an aſpiring nature, and apt to put too high a value upon himſelf: they who are raiſed above their brethren, tho' but a little, deſire to go farther; and if they gain the name of king, they think themſelves wronged and degraded, when they are not ſuffered to do what they pleaſe.

Sen. Thyeſt.

"— Sanctitas, pietas, fides
" Privata bona ſunt: qua juvat, reges eant."

In theſe things they never want maſters; and the nearer they come to a power that is not eaſily reſtrained by law, the more paſſionately they deſire to aboliſh all that oppoſes it: and when their hearts are filled with this fury, they never fail to chuſe ſuch miniſters as will be ſubſervient to their will: and this is ſo well known, that thoſe only approach them who reſolve to be ſo. Their intereſts as well as their inclinations incite them to diffuſe their own manners as far as they can, which is no leſs than to bring thoſe who are under their power to all that wickedneſs of which the nature of man is capable; and no greater teſtimony can be given of the efficacy of theſe means towards the utter corruption of nations, than the accurſed effects we ſee of them in our own and the neighbouring countries.

It may be ſaid, that ſome princes are ſo full of virtue and goodneſs, as not to deſire more power than the laws allow, and are not obliged to chuſe ill men, becauſe they deſire nothing but what the beſt are willing to do. This may be, and ſometimes is: the nation is happy that has ſuch a king: but he is hard to find, and more than a human power is required to keep him in ſo good a way. The ſtrength of his own affections will ever be againſt him: wives, children, and ſervants, will always join with thoſe enemies that ariſe in his own breaſt to pervert him: if he has any weak ſide, any luſt unſubdued, they will gain the victory. He has not ſearched into the nature of man, who thinks that any one can reſiſt when he is thus on all ſides aſſaulted: nothing but the wonderful and immediate power of God's Spirit can preſerve him; and to alledge it, will be nothing to the purpoſe, unleſs it can be proved, that all princes are bleſſed with ſuch an aſſiſtance, or that God hath promiſed it to them and their ſucceſſors for ever, by what means ſoever they came to the crowns they enjoy.

Nothing is farther from my intention than to ſpeak irreverently of kings; and I preſume no wiſe man will think I do ſo, if I profeſs, that, having obſerved, as well as I can, what hiſtory, and daily experience, teach us concerning the virtues and religions that are or have been from the beginning of the world encouraged and ſupported by

by monarchs, the methods they have followed ſince they have gone under the name of chriſtians, their moral as well as their theological graces, together with what the ſcriptures tell us of thoſe who in the laſt days will principally ſupport the throne of antichriſt; I cannot be confident, that they are generally in an extraordinary manner preſerved by the hand of God from the vices and frailties to which the reſt of mankind is ſubject. If no man can ſhew that I am in this miſtaken, I may conclude, that as they are more than any other men in the world expoſed to temptations and ſnares, they are more than any in danger of being corrupted, and made inſtruments of corrupting others, if they are no otherwiſe defended than the reſt of men. SECT. 19.

This being the ſtate of the matter on both ſides, we may eaſily collect, that all governments are ſubject to corruption and decay; but with this difference, that abſolute monarchy is by principle led unto, or rooted in it; whereas mixed or popular governments are only in a poſſibility of falling into it: as the firſt cannot ſubſiſt, unleſs the prevailing part of the people be corrupted; the other muſt certainly periſh, unleſs they be preſerved in a great meaſure free from vices: and I doubt whether any better reaſon can be given, why there have been and are more monarchies than popular governments in the world, than that nations are more eaſily drawn into corruption than defended from it; and I think that monarchy can be ſaid to be natural in no other ſenſe, than that our depraved nature is moſt inclined to that which is worſt.

To avoid unneceſſary diſputes, I give the name of popular governments to thoſe of Rome, Athens, Sparta, and the like, though improperly, unleſs the ſame may alſo be given to many that are uſually called monarchies, ſince there is nothing of violence in either; the power is conferred upon the chief magiſtrates of both by the free conſent of a willing people, and ſuch a part as they think fit is ſtill retained and executed in their own aſſemblies; and in this ſenſe it is that our author ſeems to ſpeak againſt them. As to popular government in the ſtricteſt ſenſe (that is pure democracy, where the people in themſelves, and by themſelves, perform all that belongs to government) I know of no ſuch thing; and if it be in the world, have nothing to ſay for it. In aſſerting the liberty, generally, as I ſuppoſe, granted by God to all mankind, I neither deny, that ſo many as think fit to enter into a ſociety, may give ſo much of their power as they pleaſe to one or more men, for a time, or perpetually, to them and their heirs, according to ſuch rules as they preſcribe; nor approve the diſorders that muſt ariſe if they keep it intirely in their own hands: and looking upon the ſeveral governments, which, under different forms and names, have been regularly conſtituted by nations, as ſo many undeniable teſtimonies, that they thought it good for themſelves, and their poſterity, ſo to do, I infer, that as there is no man who would not rather chuſe to be governed by ſuch as are juſt, induſtrious, valiant, and wiſe, than by thoſe that are wicked, ſlothful, cowardly, and fooliſh; and to live in ſociety with ſuch as are qualified like thoſe of the firſt ſort, rather than with thoſe who will be ever ready to commit all manner of villainies, or want

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want experience, ſtrength or courage, to join in repelling the injuries that are offered by others: ſo there are none who do not according to the meaſure of underſtanding they have, endeavour to ſet up thoſe who ſeem to be beſt qualified, and to prevent the introduction of thoſe vices, which render the faith of the magiſtrate ſuſpected, or make him unable to perform his duty, in providing for the execution of juſtice, and the public defence of the ſtate, againſt foreign or domeſtic enemies. For as no man who is not abſolutely mad, will commit the care of a flock to a villain, that has neither ſkill, diligence, nor courage, to defend them, or perhaps is maliciouſly ſet to deſtroy them, rather than to a ſtout, faithful, and wiſe ſhepherd; it is leſs to be imagined, that any would commit the ſame error in relation to that ſociety which comprehends himſelf, with his children, friends, and all that is dear to him.

The ſame conſiderations are of equal force in relation to the body of every nation: for ſince the magiſtrate, tho' the moſt perfect in his kind, cannot perform his duty, if the people be ſo baſe, vicious, effeminate, and cowardly, as not to ſecond his good intentions; thoſe who expect good from him, cannot deſire ſo to corrupt their companions that are to help him, as to render it impoſſible for him to accompliſh it. Tho' I believe there have been in all ages bad men in every nation; yet I doubt whether there was one in Rome, except a Catiline or a Cæſar, who deſigned to make themſelves tyrants, that would not rather have wiſhed the whole people as brave and virtuous as in the time of the Carthaginian wars, than vile and baſe, as in the days of Nero and Domitian. But it is madneſs to think, that the whole body would not rather wiſh to be as it was when virtue flouriſhed, and nothing upon earth was able to reſiſt their power, than weak, miſerable, baſe, ſlaviſh, and trampled under foot by any that would invade them; and forced as a chattel to become a prey to thoſe that were ſtrongeſt. Which is ſufficient to ſhew, that a people acting according to the liberty of their own will, never advance unworthy men, unleſs it be by miſtake, nor willingly ſuffer the introduction of vices: whereas the abſolute monarch always prefers the worſt of thoſe who are addicted to him, and cannot ſubſiſt unleſs the prevailing part of the people be baſe and vicious.

If it be ſaid, that thoſe governments in which the democratical part governs moſt, do more frequently err in the choice of men, or the means of preſerving that purity of manners which is required for the well-being of a people, than thoſe wherein ariſtocracy prevails; I confeſs it, and that in Rome and Athens the beſt and wiſeſt men did for the moſt part incline to ariſtocracy. Xenophon, Plato, Ariſtotle, Thucydides, Livy, Tacitus, Cicero, and others, were of this ſort: but if our author there ſeek patrons for his abſolute monarchy, he will find none but Phalaris, Agathocles, Dionyſius, Catiline, Cethegus, Lentulus, with the corrupted crew of mercenary raſcals, who did, or endeavoured to ſet them up. Theſe are they "quibus ex honeſto nulla eſt ſpes;" they abhor the dominion of the law, becauſe it curbs their vices, and make themſelves ſubſervient to the luſts of a man who may nouriſh them. Similitude of intereſts, manners,

manners, and deſigns, is a link of union between them: both are enemies to popular and mixed government; and thoſe governments are enemies to them, and by preſerving virtue and integrity oppoſe both; knowing, that if they do not, they and their governments muſt certainly periſh. SECT. 20.

SECT. XX.

Man's natural love to liberty is tempered by reaſon, which originally is his nature.

THAT our author's book may appear to be a heap of incongruities and contradictions, it is not amiſs to add to what has already been obſerved, that, having aſſerted abſolute monarchy to be "the only natural government," he now ſays, "that the nature of all "people is to deſire liberty without reſtraint." But if monarchy be that power which above all reſtrains liberty, and ſubjects all to the will of one; this is as much as to ſay, that all people naturally deſire that which is againſt nature; and by wonderful exceſs of extravagance and folly to aſſert contrary propoſitions, that on both ſides are equally abſurd and falſe. For, as we have already proved that no government is impoſed upon men by God or nature, it is no leſs evident, that, man being a rational creature, nothing can be univerſally natural to him, that is not rational. But this liberty without reſtraint being inconſiſtent with any government, and the good which man naturally deſires for himſelf, children, and friends, we find no place in the world where the inhabitants do not enter into ſome kind of ſociety or government to reſtrain it: and to ſay that all men deſire liberty without reſtraint, and yet that all do reſtrain it, is ridiculous. The truth is, man is hereunto led by reaſon, which is his nature. Every one ſees they cannot well live aſunder, nor many together, without ſome rule to which all muſt ſubmit. This ſubmiſſion is a reſtraint of liberty, but could be of no effect as to the good intended, unleſs it were general; nor general, unleſs it were natural. When all are born to the ſame freedom, ſome will not reſign that which is their own, unleſs others do the like. This general conſent of all to reſign ſuch a part of their liberty as ſeems to be for the good of all, is the voice of nature, and the act of men (according to natural reaſon) ſeeking their own good: and if all go not in the ſame way, according to the ſame form, it is an evident teſtimony that no one is directed by nature; but as a few or many may join together, and frame ſmaller and greater ſocieties, ſo thoſe ſocieties may inſtitute ſuch an order or form of government as beſt pleaſes themſelves; and if the ends of government are obtained. they all equally follow the voice of nature in conſtituting them.

Again, if man were by nature ſo tenacious of his liberty without reſtraint, he muſt be rationally ſo. The creation of abſolute monarchies, which entirely extinguiſhes it, muſt neceſſarily be moſt contrary to it, tho' the people were willing; for they thereby abjure

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their own nature. The uſurpation of them can be no leſs than the moſt abominable and outrageous violation of the laws of nature that can be imagined: the laws of God muſt be in the like meaſure broken; and of all governments, democracy, in which every man's liberty is leaſt reſtrained, becauſe every man hath an equal part, would certainly prove to be the moſt juſt, rational, and natural; whereas our author repreſents it as a perpetual ſpring of diſorder, confuſion, and vice. This conſequence would be unavoidable, if he ſaid true; but it being my fate often to differ from him, I hope to be excuſed if I do ſo in this alſo, and affirm, that nothing but the plain and certain dictates of reaſon can be generally applicable to all men as the law of their nature; and they who, according to the beſt of their underſtanding, provide for the good of themſelves and their poſterity, do all equally obſerve it. He that inquires more exactly into the matter may find, that reaſon injoins every man not to arrogate to himſelf more than he allows to others, nor to retain that liberty which will prove hurtful to him; or to expect that others will ſuffer themſelves to be reſtrained, whilſt he, to their prejudice, remains in the exerciſe of that freedom which nature allows. He who would be exempted from this common rule, muſt ſhew for what reaſon he ſhould be raiſed above his brethren; and, if he do it not, he is an enemy to them. This is not popularity, but tyranny; and tyrants are ſaid "exuiſſe hominem," to throw off the nature of men, becauſe they do unjuſtly and unreaſonably aſſume to themſelves that which agrees not with the frailty of human nature, and ſet up an intereſt in themſelves contrary to that of their equals, which they ought to defend as their own. Such as favour them are like to them; and we know of no tyranny that was not ſet up by the worſt, nor of any that have been deſtroyed, unleſs by the beſt of men. The ſeveral tyrannies of Syracuſe were introduced by Agathocles, Dionyſius, Hieronymus, Hippocrates, Epicydes, and others, by the help of lewd diſſolute mercenary villains; and overthrown by Timoleon, Dion, Theodorus, and others, whoſe virtues will be remembered in all ages. Theſe, and others like to them, never ſought liberty without reſtraint, but ſuch as was reſtrained by laws tending to the public good; that all might concur in promoting it, and the unruly deſires of thoſe who affected power and honours, which they did not deſerve, might be repreſſed.

The like was ſeen in Rome: when Brutus, Valerius, and other virtuous citizens, had thrown out the lewd Tarquins, they truſted to their own innocence and reputation; and thinking them ſafe under the protection of the law, contented themſelves with ſuch honours as their countrymen thought they deſerved. This would not ſatisfy the diſſolute crew that uſed to be companions to the Tarquins.

T. Liv. l. ii. "Sodales adoleſcentium Tarquiniorum aſſueti more regio vivere, eam "tum æquato jure omnium licentiam quærentes, libertatem aliorum in "ſuam vertiſſe ſervitutem conquerebantur. Regem hominem eſſe, à "quo impetres ubi jus, ubi injuria opus ſit. Eſſe gratiæ locum, eſſe "beneficio: & iraſci & ignoſcere poſſe. Leges rem ſurdam eſſe & in-"exorabilem, ſalubriorem inopi quam potenti: nihil laxamenti nec "veniæ habere, ſi modum exceſſeris: periculoſum eſſe in tot humanis

"erroribus

" erroribus ſola innocentia vivere." I cannot ſay, that either of theſe ſought a liberty without reſtraint; for the virtuous were willing to be reſtrained by the law, and the vicious to ſubmit to the will of a man, to gain impunity in offending. But if our author ſay true, the licentious fury of theſe lewd young men, who endeavoured to ſubvert the conſtitution of their country, to procure the impunity of their own crimes, would have been more natural, that is more reaſonable than the orderly proceedings of the moſt virtuous, who deſired that the law might be the rule of their actions, which is moſt abſurd. SECT. 20.

The like vicious wretches have in all times endeavoured to put the power into the hands of one man, who might protect them in their villainies, and advance them to exorbitant riches, or undeſerved honours; whilſt the beſt men, truſting in their innocence, and deſiring no other riches or preferments than what they were by their equals thought to deſerve, were contented with a due liberty, under the protection of a juſt law: and I muſt tranſcribe the hiſtories of the world, or at leaſt ſo much of them as concerns the tyrannies that have been ſet up or caſt down, if I ſhould here inſert all the proofs that might be given of it. But I ſhall come nearer to the point, which is not to compare democracy with monarchy, but a regular mixed government with ſuch an abſolute monarchy, as leaves all to the will of that man, woman, or child, who happens to be born in the reigning family, how ill ſoever they may be qualified. I deſire thoſe who are lovers of truth to conſider, whether the wiſeſt, beſt, and braveſt of men, are not naturally led to be pleaſed with a government that protects them from receiving wrong, when they have not the leaſt inclination to do any? Whether they who deſire no unjuſt advantage above their brethren, will not always deſire that a people or ſenate conſtituted as that of Rome, from the expulſion of Tarquin to the ſetting up of Cæſar, ſhould rather judge of their merit, than Tarquin, Cæſar, or his ſucceſſors? Or whether the lewd or corrupted pretorian bands, with Macro, Sejanus, Tigellinus, and the like, commanding them, will not ever, like Brutus's ſons, abhor the inexorable power of the laws, with the neceſſity of living only by their innocence, and favour the intereſt of princes like to thoſe that advanced them? If this be not ſufficient, they may be pleaſed a little to reflect upon the affairs of our own country, and ſeriouſly conſider, whether Hide, Clifford, Falmouth, Arlington and Danby, could have pretended to the chief places, if the diſpoſal of them had been in a free and well-regulated parliament? Whether they did moſt reſemble Brutus, Publicola, and the reſt of the Valerii, the Fabii, Quintii, Cornelii, &c. or Narciſſus, Pallas, Icetus, Laco, Vinnius, and the like? Whether all men, good and bad, do not favour that ſtate of things, which favours them, and ſuch as they are? Whether Cleaveland, Portſmouth, and others of the ſame trade, have attained to the riches and honours they enjoy by ſervices done to the commonwealth? And what places Chiffinch, Fox and Jenkins, could probably have attained, if our affairs had been regulated as good men deſire? Whether the old arts of begging, ſtealing, and bawding, or the new ones of informing and trepanning, thrive beſt under one

man who may be weak or vicious, and is always ſubject to be circumvented by flatterers, or under the ſevere ſcrutinies of a ſenate or people? In a word, whether they who live by ſuch arts, and know no other, do not always endeavour to advance the government under which they enjoy, or may hope to obtain the higheſt honours, and abhor that, in which they are expoſed to all manner of ſcorn and puniſhment? Which being determined, it will eaſily appear why the worſt men have ever been for abſolute monarchy, and the beſt againſt it; and which of the two in ſo doing can be ſaid to deſire an unreſtrained liberty of doing that which is evil.

SECT. XXI.

Mixed and popular governments preſerve peace, and manage wars, better than abſolute monarchies.

BEING no-way concerned in the defence of democracy; and having proved, that Xenophon, Thucydides, and others of the antients, in ſpeaking againſt the over-great power of the common people, intended to add reputation to the ariſtocratical party to which they were addicted, and not to ſet up abſolute monarchy, which never fell under diſcourſe among them, but as an object of ſcorn and hatred, evil in itſelf, and only to be endured by baſe and barbarous people, I may leave our knight, like Don Quixote, fighting againſt the phantaſms of his own brain, and ſaying what he pleaſes againſt ſuch governments as never were, unleſs in ſuch a place as San Marino near Sinigaglia in Italy, where a hundred clowns govern a barbarous rock that no man invades, and relates nothing to our queſtion. If his doctrine be true, the monarchy he extols is not only to be preferred before unruly democracy, and mixed governments, but is the only one that, without a groſs violation of the laws of God and nature, can be eſtabliſhed over any nation. But having, as I hope, ſufficiently proved, that God did neither inſtitute, nor appoint any ſuch to be inſtituted, nor approve thoſe that were; that nature does not incline us to it, and that the beſt as well as the wiſeſt men have always abhorred it; that it has been agreeable only to the moſt ſtupid and baſe nations; and if others have ſubmitted to it, they have done ſo only as to the greateſt of evils brought upon them by violence, corruption, or fraud; I may now proceed to ſhew, that the progreſs of it has been in all reſpects ſuitable to its beginning.

To this end it will not be amiſs to examine our author's words: "Thus," ſays he, "do they paint to the life this beaſt with many "heads: let me give the cypher of their form of government: as it "is begot by ſedition, ſo it is nouriſhed by crimes: it can never ſtand "without wars, either with an enemy abroad, or with friends at "home;" and in order to this I will not criticize upon the terms, tho' the cypher of a form, and war with friends, may be juſtly called nonſenſe; but coming to his aſſertions, that popular or mixed governments have their birth in ſedition, and are ever afterwards vexed with civil

civil or foreign wars, I take liberty to ſay, that whereas there is no form appointed by God or nature, thoſe governments only can be called juſt, which are eſtabliſhed by the conſent of nations. Theſe nations may at the firſt ſet up popular or mixed governments, and without the guilt of ſedition introduce them afterwards, if that which was firſt eſtabliſhed prove unprofitable or hurtful to them; and thoſe that have done ſo, have enjoyed more juſtice in times of peace, and managed wars, when occaſion required, with more virtue, and better ſucceſs, than any abſolute monarchies have done. And whereas he ſays, that "in popular governments each man hath a "care of his particular, and thinks baſely of the common good; they "look upon approaching miſchiefs as they do upon thunder, only "every man wiſheth it may not touch his own perſon:" I ſay, that men can no otherwiſe be engaged to take care of the public, than by having ſuch a part in it, as abſolute monarchy does not allow; for under it they can neither obtain the good for themſelves, poſterity, and friends, that they deſire, nor prevent the miſchiefs they fear, which are the principal arguments that perſuade men to expoſe themſelves to labours or dangers. It is a folly to ſay, that the vigilance and wiſdom of the monarch ſupplies the defect of care in others; for we know, that no men under the ſun were ever more void of both, and all manner of virtue required to ſuch a work, than very many monarchs have been: and, which is yet worſe, the ſtrength and happineſs of the people being frequently dangerous to them, they have not ſo much as the will to promote it; nay, ſometimes ſet themſelves to deſtroy it. Antient monarchies afford us frequent examples of this kind; and if we conſider thoſe of France and Turky, which ſeem moſt to flouriſh in our age, the people will appear to be ſo miſerable under both, that they cannot fear any change of governor or government; and all, except a few miniſters, are kept ſo far from the knowledge of, or power in the management of affairs, that if any of them ſhould fanſy a poſſibility of ſomething that might befal them worſe than what they ſuffer, or hope for that which might alleviate their miſery, they could do nothing towards the advancement of the one, or prevention of the other. Tacitus obſerves, that in his time no man was able to write what paſſed, "inſcitia reipublicæ ut alienæ." They neglected the public affairs in which they had no part. In the ſame age it was ſaid, that the people, who, whilſt they fought for their own intereſts, had been invincible, being enſlaved, were grown ſordid, idle, baſe, running after ſtage-plays and ſhows; ſo as the whole ſtrength of the Roman armies conſiſted of ſtrangers. When their ſpirits were depreſſed by ſervitude, they had neither courage to defend themſelves, nor will to fight for their wicked maſters; and leaſt of all to increaſe their power, which was deſtructive to themſelves: the ſame thing is found in all places. Tho' the Turk commands many vaſt provinces, that naturally produce as good ſoldiers as any, yet his greateſt ſtrength is in children that do not know their fathers; who not being very many in number, may periſh in one battle, and the empire by that means be loſt, the miſerable nations that groan under that tyranny having neither courage, power, nor will, to defend it. This was the fate of the Mamalukes. They

SECT. 21.

Tacit. an. Li.

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had for the ſpace of almoſt two hundred years domineered in Egypt, and a great part of Aſia; but the people under them being weak and diſaffected, they could never recover the defeat they received from Selim near Tripoli, who, purſuing his victory, in a few months utterly aboliſhed their kingdom.

Notwithſtanding the preſent pride of France, the numbers and warlike inclinations of that people, the bravery of the nobility, extent of dominion, convenience of ſituation, and the vaſt revenues of their king, his greateſt advantages have been gained by the miſtaken counſels of England, the valour of our ſoldiers unhappily ſent to ſerve him, and the ſtrangers of whom the ſtrength of his armies conſiſts; which is ſo unſteady a ſupport, that many who are well verſed in affairs of this nature, incline to think he ſubſiſts rather by little arts, and corrupting miniſters in foreign courts, than by the power of his own armies; and that ſome reformation in the counſels of his neighbours might prove ſufficient to overthrow that greatneſs which is grown formidable to Europe; the ſame miſery to which he has reduced his people, rendering them as unable to defend him, upon any change of fortune, as to defend their own rights againſt him.

This proceeds not from any particular defect in the French government, but that which is common to all abſolute monarchies. And no ſtate can be ſaid to ſtand upon a ſteady foundation, except thoſe whoſe ſtrength is in their own ſoldiery, and the body of their own people. Such as ſerve for wages, often betray their maſters in diſtreſs, and always want the courage and induſtry which is found in thoſe who fight for their own intereſts, and are to have a part in the victory. The buſineſs of mercenaries is ſo to perform their duty, as to keep their employments, and to draw profit from them; but that is not enough to ſupport the ſpirits of men in extreme dangers. The ſhepherd, who is a hireling, flies when the thief comes; and this adventitious help failing, all that a prince can reaſonably expect from a diſaffected and oppreſſed people, is, that they ſhould bear the yoke patiently in the time of his proſperity; but upon the change of his fortune, they leave him to ſhift for himſelf, or join with his enemies to avenge the injuries they had received. Thus did Alphonſo, and Ferdinand, kings of Naples, and Ludovico Sforza duke of Milan fall, in the times of Charles the Eighth, and Louis the Twelfth, kings of France. The two firſt had been falſe, violent, and cruel; nothing within their kingdom could oppoſe their fury: but when they were invaded by a foreign power, they loſt all, as Guicciardin ſays, without breaking one lance; and Sforza was by his own mercenary ſoldiers delivered into the hands of his enemies.

I think it may be hard to find examples of ſuch as proceeding in the ſame way have had better ſucceſs: but if it ſhould ſo fall out, that a people living under an abſolute monarchy, ſhould through cuſtom, or fear of ſomething worſe (if that can be) not only ſuffer patiently, but deſire to uphold the government; neither the nobility, nor commonalty, can do any thing towards it. They are ſtrangers to all public concernments: all things are governed by one or a few men, and others know nothing either of action or counſel. Filmer will

will tell us it is no matter; the profound wiſdom of the prince provides for all. But what if this prince be a child, a fool, a ſuper-annuated dotard, or a madman? Or if he does not fall under any of theſe extremities, and poſſeſſes ſuch a proportion of wit, induſtry, and courage, as is ordinarily ſeen in men, how ſhall he ſupply the office that indeed requires profound wiſdom, and an equal meaſure of experience and valour? It is to no purpoſe to ſay a good council may ſupply his defects; for it does not appear how he ſhould come by this council, nor who ſhould oblige him to follow their advice: if he be left to his own will to do what he pleaſes, tho' good advice be given to him; yet his judgment being perverted, he will always incline to the worſt: if a neceſſity be impoſed upon him of acting according to the advice of his council, he is not that abſolute monarch of whom we ſpeak, nor the government monarchical, but ariſtocratical. Theſe are imperfect fig-leaf-coverings of nakedneſs. It was in vain to give good counſel to Sardanapalus; and none could defend the Aſſyrian empire, when he lay wallowing amongſt his whores, without any other thought than of his luſts. None could preſerve Rome, when Domitian's chief buſineſs was to kill flies, and that of Honorius to take care of his hens. The monarchy of France muſt have periſhed under the baſe kings they call "les roys faineants," if the ſcepter had not been wreſted out of their unworthy hands. The world is full of examples in this kind: and when it pleaſes God to beſtow a juſt, wiſe, and valiant king, as a bleſſing upon a nation, it is only a momentary help, his virtues end with him; and there being neither any divine promiſe nor human reaſon moving us to believe that they ſhall always be renewed and continued in his ſucceſſors, men cannot rely upon it; and to alledge a poſſibility of ſuch a thing is nothing to the purpoſe. SECT. 21.

On the other ſide, in a popular or mixed government every man is concerned: every one has a part, according to his quality or merit; all changes are prejudicial to all: whatſoever any man conceives to be for the public good, he may propoſe it in the magiſtracy, or to the magiſtrate: the body of the people is the public defence, and every man is armed and diſciplined: the advantages of good ſucceſs are communicated to all, and every one bears a part in the loſſes. This makes men generous and induſtrious; and fills their hearts with love to their country: * this, and the deſire of that praiſe which is the reward of virtue, raiſed the Romans above the reſt of mankind; and whereſoever the ſame ways are taken, they will in a great meaſure have the ſame effects. By this means they had as many ſoldiers to fight for their country as there were freemen in it. Whilſt they had to deal with the free nations of Italy, Greece, Africa, or Spain, they never conquered a country, till the inhabitants were exhauſted: but when they came to fight againſt kings, the ſucceſs of a battle was enough to bring a kingdom under their power. Antiochus upon a ruffle received from Acilius at Thermopylæ, left all that he poſſeſſed in Greece; and being defeated by Scipio Naſica, he quitted all the kingdoms and territories of Aſia on this ſide Taurus. Paulus Emilius became maſter of Macedon by one proſperous fight againſt Perſeus. Syphax, Gentius, Tigranes, Ptolemy, and others, were

* Amor patriæ laudiſque immenſa cupido. Virg. Æn. vi. v. 23.

CHAP. II. more eaſily ſubdued. The mercenary armies on which they relied being broken, the cities and countries not caring for their maſters, ſubmitted to thoſe who had more virtue, and better fortune. If the Roman power had not been built upon a more ſure foundation, they could not have ſubſiſted. Notwithſtanding their valour, they were often beaten; but their loſſes were immediately repaired by the excellence of their diſcipline. When Hannibal had gained the battles of Trebia, Ticinum, Thraſimene, and Cannæ; defeated the Romans in many other encounters, and ſlain above two hundred thouſand of their men, with Paulus Emilius, C. Servilius, Sempronius Gracchus, Quintius, Marcellus, and many other excellent commanders: when about the ſame time the two brave Scipio's had been cut off with their armies in Spain, and many great loſſes had been ſuſtained in Sicily, and by ſea, one would have thought it impoſſible for the city to have reſiſted: but their virtue, love to their country, and good government, was a ſtrength that increaſed under all their calamities, and in the end overcame all. The nearer Hannibal came to the walls, the more obſtinate was their reſiſtance. Tho' he had killed more great captains than any kingdom ever had, others daily ſtepped up in their place, who excelled them in all manner of virtue. I know not, if at any time that conquering city could glory in a greater number of men fit for the higheſt enterprizes, than at the end of that cruel war, which had conſumed ſo many of them; but I think, that the finiſhing victories by them obtained, are but ill proofs of our author's aſſertion, that they "thought baſely of the common good, and fought "only to ſave themſelves." We know of none except Cecilius Metellus, who, after the battle of Cannæ, had ſo baſe a thought as to deſign the withdrawing himſelf from the public ruin; but Scipio (afterwards ſurnamed Africanus) threatening death to thoſe who would not ſwear never to abandon their country, forced him to leave it. This may in general be imputed to good government and diſcipline, with which all were ſo ſeaſoned from their infancy, that no affection was ſo rooted in them, as an ardent love to their country, and a reſolution to die for it, or with it; but the means by which they accompliſhed their great ends, ſo as after their defeats to have ſuch men as carried on their nobleſt deſigns with more glory than ever, was their annual elections of magiſtrates, many being thereby advanced to the ſupreme commands, and every one by the honours they enjoyed, filled with a deſire of rendering himſelf worthy of them.

It is told differently in Livy, l. xxii. c. 53.

I ſhould not much inſiſt upon theſe things, if they had been ſeen only in Rome: but tho' their diſcipline ſeems to have been more perfect, better obſerved, and to have produced a virtue that ſurpaſſed all others; the like has been found, tho' perhaps not in the ſame degree, in all nations that have enjoyed their liberty, and were admitted to ſuch a part of the government, as might give them a love to it. This was evident in all the nations of Italy. The Sabines, Volſci, Æqui, Tuſcans, Samnites, and others, were never conquered till they had no men left. The Samnites alone inhabiting a ſmall and barren province, ſuffered more defeats before they were ſubdued, than all the kingdoms of Numidia, Egypt, Macedon, and Aſia; and, as it is expreſt in their embaſſy to Hannibal, never yielded, till they who had brought

Liv. l. xxiii. c. 42.

brought vaſt numbers of men into the field, and by them defeated ſome of the Roman armies, were reduced to ſuch weakneſs, that they could not reſiſt one legion. We hear of few Spartans who did not willingly expoſe their lives for the ſervice of their country: and the women themſelves were ſo far inflamed with the ſame affection, that they refuſed to mourn for their children and huſbands, who died in the defence of it. When the brave Braſidas was ſlain, ſome eminent men went to comfort his mother upon the news of his death; and telling her he was the moſt valiant man in the city, ſhe anſwered, that he was indeed a valiant man, and died as he ought to do; but that, through the goodneſs of the gods, many others were left as valiant as he. Thucyd. de bel. Pelopon. SECT. 22.

When Xerxes invaded Greece, there was not a citizen of Athens able to bear arms, who did not leave his wife and children to ſhift for themſelves in the neighbouring cities, and their houſes to be burnt, when they embarked with Themiſtocles; and never thought of either, till they had defeated the Barbarians at Salamis by ſea, and at Platea by land. When men are thus ſpirited, ſome will ever prove excellent; and as none did ever ſurpaſs thoſe, who were bred under this diſcipline, in all moral, military, and civil virtues; thoſe very countries where they flouriſhed moſt, have not produced any eminent men ſince they loſt that liberty which was the mother and nurſe of them

Tho' I ſhould fill a volume with examples of this kind (as I might eaſily do), ſuch as our author will ſay, that in popular governments men look upon miſchiefs as thunder, and only wiſh it may not touch themſelves: but, leaving them to the ſcorn and hatred they deſerve by their impudence and folly, I conclude this point with the anſwer, that Trajano Boccalini puts into the mouth of Apollo, to the princes who complained that their ſubjects had not that love to their countries, as had been, and was daily ſeen, in thoſe who lived under commonwealths; which did amount to no more than to tell them, that their ill government was the cauſe of that defect, and that the prejudices incurred by rapine, violence, and fraud, were to be repaired only by liberality, juſtice, and ſuch a care of their ſubjects, that they might live happily under them. Ragion. 99.

SECT. XXII.

Commonwealths ſeek peace or war, according to the variety of their conſtitutions.

IF I have hitherto ſpoken in general of popular or mixed governments, as if they were all founded on the ſame principle, it was only becauſe our author without diſtinction has generally blamed them all, and generally imputed to every one thoſe faults, which perhaps never were in any; but moſt certainly are directly oppoſite to the temper and conſtitution of many among them. Malice and ignorance reign ſo equally in him, that it is not eaſy to determine

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from which of the two this falſe repreſentation proceeds. But leſt any man ſhould thereby be impoſed upon, it is time to obſerve, that the conſtitutions of commonwealths have been ſo various, according to the different temper of nations and times, that if ſome of them ſeem to have been principally conſtituted for war, others have as much delighted in peace: and many, having taken the middle, and (as ſome think) the beſt way, have ſo moderated their love to peace, as not to ſuffer the ſpirits of the people to fall, but kept them in a perpetual readineſs to make war when there was occaſion: and every one of thoſe having followed ſeveral ways and ends, deſerve our particular conſideration.

The cities of Rome, Sparta, Thebes, and all the aſſociations of the Etolians, Achaians, Sabines, Latins, Samnites, and many others that antiently flouriſhed in Greece and Italy, ſeem to have intended nothing but the juſt preſervation of liberty at home, and making war abroad. All the nations of Spain, Germany, and Gaul, ſought the ſame things. Their principal work was to render their people valiant, obedient to their commanders, lovers of their country, and always ready to fight for it: and for this reaſon, when the ſenators of Rome had killed Romulus, they perſuaded Julius Proculus to affirm, that he had ſeen him in a moſt glorious form aſcending to heaven, and promiſing great things to the city: "Proinde rem militarem "colant." The Athenians were not leſs inclined to war; but applied themſelves to trade, as ſubſervient to that end, by increaſing the number of the people, and furniſhing them with the means of carrying it on with more vigour and power. The Phenician cities, of which Carthage was the moſt eminent, followed the ſame method; but, knowing that riches do not defend themſelves, or ſcorning ſlothfully to enjoy what was gained by commerce, they ſo far applied themſelves to war, that they grew to a power, which Rome only was able to overthrow. Venice, Florence, Genoa, Lucca, and ſome other cities of Italy, ſeem chiefly to have aimed at trade; and placing the hopes of their ſafety in the protection of more powerful ſtates, unwillingly entered into wars, eſpecially by land; and when they did, they made them by mercenary ſoldiers.

Again, ſome of thoſe that intended war, deſired to enlarge their territories by conqueſt; others only to preſerve their own, and to live with freedom and ſafety upon them. Rome was of the firſt ſort; and knowing that ſuch ends cannot be accompliſhed without great numbers of men, they freely admitted ſtrangers into the city, ſenate, and magiſtracy. Numa was a Sabine: Tarquinius Priſcus was the ſon of a Grecian: one hundred of thoſe Sabines who came with Tatius were admitted into the ſenate: Appius Claudius of the ſame people came to Rome, was made a member of the ſenate, and created conſul. They demoliſhed ſeveral cities, and brought the inhabitants to their own; gave the right of citizens to many others (ſometimes to whole cities and provinces) and cared not how many they received, ſo they could engraft them upon the ſame intereſt with the old ſtock, and ſeaſon them with the ſame principles, diſcipline, and manners. On the other ſide, the Spartans deſiring only to continue free, virtuous, and ſafe in the enjoyment of their own ter-

territory, and thinking themſelves ſtrong enough to defend it, framed a moſt ſevere diſcipline, to which few ſtrangers would ſubmit. They baniſhed all thoſe curious arts, that are uſeful to trade; prohibited the importation of gold and ſilver; appointed the helotes to cultivate their lands, and to exerciſe ſuch trades as are neceſſary to life; admitted few ſtrangers to live amongſt them; made none of them free of their city, and educated their youth in ſuch exerciſes only as prepared them for war. I will not take upon me to judge whether this proceeded from ſuch a moderation of ſpirit, as placed felicity rather in the fulneſs and ſtability of liberty, integrity, virtue, and the enjoyment of their own, than in riches, power, and dominion over others; nor which of theſe two different methods deſerves moſt to be commended: but certain it is, that both ſucceeded according to the intention of the founders. SECT. 22.

Rome conquered the beſt part of the world, and never wanted men to defend what was gained: Sparta lived in ſuch happineſs and reputation, that till it was invaded by Epaminondas, an enemy's trumpet had not been heard by thoſe within the town for the ſpace of eight hundred years, and never ſuffered any great diſaſter, till receding from their own inſtitutions, they were brought by proſperity to affect the principality of Greece, and to undertake ſuch wars as could not be carried on without money, and greater numbers of men than a ſmall city was able to furniſh; by which means they were obliged to beg aſſiſtance from the Barbarians, whom they ſcorned and hated, as appears by the ſtories of Callicratidas, Lyſander, and Ageſilaus, and fell into ſuch ſtreights as were never recovered.

The like variety has been obſerved in the conſtitutions of thoſe northern nations that invaded the Roman empire; for tho' all of them intended war, and looked upon thoſe only to be members of their commonwealths, who uſed arms to defend them, yet ſome did immediately incorporate themſelves with thoſe of the conquered countries. Of this number were the Franks, who preſently became one nation with the Gauls; others kept themſelves in a diſtinct body, as the Saxons did from the Britons: and the Goths for more than three hundred years that they reigned in Spain, never contracted marriages, or otherwiſe mixed with the Spaniards, till their kingdom was overthrown by the Moors.

Theſe things, and others of the like nature, being weighed, many have doubted whether it were better to conſtitute a commonwealth for war, or for trade; and of ſuch as intend war, whether thoſe are moſt to be praiſed who prepare for defence only, or thoſe who deſign by conqueſt to enlarge their dominions: or, if they admit of trade, whether they ſhould propoſe the acquiſition of riches for their ultimate end, and depend upon foreign or mercenary forces to defend them; or to be as helps to enable their own people to carry on thoſe wars, in which they may be frequently engaged. Theſe queſtions might perhaps be eaſily decided, if mankind were of a temper to ſuffer thoſe to live in peace, who offer no injury to any; or that men who have money to hire ſoldiers when they ſtand in need of them, could find ſuch as would valiantly and faithfully defend them, whilſt they apply themſelves to their trades. But

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experience teaching us, that thoſe only can be ſafe who are ſtrong; and that no people was ever well defended, but thoſe who fought for themſelves; the beſt judges of theſe matters have always given the preference to thoſe conſtitutions that principally intend war, and make uſe of trade as aſſiſting to that end: and think it better to aim at conqueſt, rather than ſimply to ſtand upon their own defence; ſince he that loſes all if he be overcome, fights upon very unequal terms; and if he obtain the victory, gains no other advantage, than for the preſent to repel the danger that threatened him.

Theſe opinions are confirmed by the examples of the Romans, who proſpered much more than the Spartans: and the Carthaginians, who made uſe of trade as a help to war, raiſed their city to be one of the moſt potent that ever was in the world: whereas the Venetians having relied on trade, and mercenary ſoldiers, are always forced too much to depend upon foreign potentates; very often to buy peace with ignominious and prejudicial conditions; and ſometimes to fear the infidelity of their own commanders, no leſs than the violence of their enemies. But that which ought to be valued above all in point of wiſdom as well as juſtice, is, the government given by God to the Hebrews, which chiefly fitted them for war, and to make conqueſts. Moſes divided them under ſeveral captains, into thouſands, hundreds, fifties, and tens: this was a perpetual ordinance amongſt them: in numbering them, thoſe only were counted, who were able to bear arms: every man was obliged to go out to war, except ſuch as had married a wife, or upon other ſpecial occaſions, were for a time excuſed; and the whole ſeries of the ſacred hiſtory ſhews, that there were always as many ſoldiers to fight for their country as there were men able to fight. And if this be taken for a picture of a many-headed beaſt, delighting in blood, begotten by ſedition, and nouriſhed by crimes, God himſelf was the drawer of it.

In this variety of conſtitutions and effects proceeding from them, I can ſee nothing more juſtly and generally to be attributed to them all, than that love to their country, which our author impudently affirms to be wanting in all. In other matters their proceedings are not only different, but contrary to each other: yet it cannot be ſaid, that any nations have enjoyed ſo much peace as ſome republics. The Venetians too great inclination to peace is accounted to be a mortal error in their conſtitution, and they have not been leſs free from domeſtic ſeditions than foreign wars: the conſpiracies of the Falerii and Tiepoli were extinguiſhed by their puniſhment, and that of La Cueva cruſhed before it was ripe. Genoa has not been altogether ſo happy: the factions of the Guelphs and Ghibelins, that ſpread themſelves over all Italy, infected that city; and the malice of the Spaniards and French raiſed others under the Fregoſi and Adorni; but they being compoſed, they have for more than an hundred and fifty years reſted in quiet.

There is another ſort of commonwealth, compoſed of many cities aſſociated together, and living "æquo jure;" every one retaining and exerciſing a ſovereign power within itſelf, except in ſome caſes expreſſed in the act of union, or league made between them. Theſe I confeſs are more hardly preſerved in peace. Diſputes may ariſe among

among them concerning limits, juriſdiction, and the like. They cannot always be equally concerned in the ſame things. The injuries offered to one do not equally affect all. Their neighbours will ſow diviſions among them; and not having a mother-city to decide their controverſies by her authority, they may be apt to fall into quarrels, eſpecially if they profeſs chriſtianity; which having been ſplit into variety of opinions ever ſince it was preached, and the papiſts, by their cruelty to ſuch as diſſent from them, ſhewing to all, that there is no other way of defending themſelves againſt them, than by uſing the ſame, almoſt every man is come to think he ought (as far as in him lies) to impoſe his belief on others, and that he can give no better teſtimony of his zeal, than the exceſs of his violence on that account. Nethertheleſs the cantons of the Switzers, tho' accompanied with all the moſt dangerous circumſtances that can be imagined, being thirteen in number, independent on each other, governed in a high degree popularly, profeſſing chriſtianity differing in moſt important points; eight of them much influenced by the Jeſuits, and perpetually excited to war againſt their brethren by the powerful crowns of Spain and France, have ever ſince they caſt off the inſupportable yoke of the earls of Hapsburg, enjoyed more peace than any other ſtate of Europe, and, from the moſt inconſiderable people, are grown to ſuch a power, that the greateſt monarchs do moſt ſolicitouſly ſeek their friendſhip; and none have dared to invade them, ſince Charles duke of Burgundy did it to his ruin: and he who for a long time had been a terror to the great, dangerous, and ſubtile king of France, gave by the loſs of three armies, and his own life, a laſting teſtimony of his temerity in aſſaulting a free and valiant, tho' a poor people, fighting in their own quarrel. Commines well relates that war; but a vaſt heap of bones remaining to this day at Muret with this inſcription, "Caroli fortiſſimi Burgundiorum ducis "exercitus Muretum obſidens ab Helvetiis cæſus, hoc ſui monumentum "reliquit," beſt ſhews the ſucceſs of it. Since that time their greateſt wars have been for the defence of Milan; or ſuch as they have undertaken for pay under the enſigns of France or Spain, that by the uſe of arms they may keep up that courage, reputation, and experience, which is required for the defence of their own country. No government was ever more free from popular ſeditions; the revolts of their ſubjects have been few, weak, and eaſily ſuppreſſed; the diſſenſion raiſed by the Jeſuits between the cantons of Zurich and Lucern was as ſoon compoſed as the rebellion of the country of Vaux againſt the canton of Bern; and thoſe few of the like nature that have happened among them have had the like ſucceſs: ſo that Thuanus, in the hiſtory of his time, comprehending about fifty years, and relating the horrid domeſtic and foreign wars that diſtracted Germany, France, Spain, Italy, Flanders, England, Scotland, Poland, Denmark, Sweden, Hungary, Tranſilvania, Muſcovy, Turky, Afric, and other places, has no more to ſay of them, than to ſhew what arts had been in vain uſed to diſturb their ſo much envied quiet. But if the modeſt temper of the people, together with the wiſdom, juſtice, and ſtrength of their government, could not be diſcompoſed by the meaſures of Spain and France, by the induſtry of their embaſſadors, or the malicious craft of the Jeſuits,

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we may ſafely conclude, that their ſtate is as well ſettled as any thing among men can be, and can hardly comprehend what is like to interrupt it. As much might be ſaid of the cities of the Hanſeatic ſociety, if they had an intire ſovereignty in themſelves: but the cities of the United Provinces in the Low Countries, being every one of them ſovereign within themſelves, and many in number, ſtill continuing in their union in ſpite of all the endeavours that have been uſed to divide them, give us an example of ſuch ſteadineſs in practice and principle, as is hardly to be paralleled in the world, and that undeniably proves a temper in their conſtitutions directly oppoſite to that which our author imputes to all popular governments: and if the death of Barnevelt and De Wit, or the preferment of ſome moſt unlike to them, be taken for a teſtimony that the beſt men thrive worſt, and the worſt beſt, I hope it may be conſidered that thoſe violences proceeded from that which is moſt contrary to popularity, tho' I am not very willing to explain it.

If theſe matters are not clear in themſelves, I deſire they may be compared with what has happened between any princes that from the beginning of the world have been joined in league to each other, whether they were of the ſame or of different nations. Let an example be brought of ſix, thirteen, or more princes or kings, who entered into a league; and for the ſpace of one or more ages, did neither break it, nor quarrel upon the explication of it. Let the ſtates of the Switzers, Griſons, or Hollanders, be compared with that of France, when it was ſometimes divided between two, three, or four brothers of Meroveus or Pepin's races; with the heptarchy of England; the kingdoms of Leon, Arragon, Navarre, Caſtile, and Portugal, under which the chriſtians in Spain were divided; or thoſe of Cordua, Sevil, Malaga, Granada, and others under the power of the Moors; and if it be not evident, that the popular ſtates have been remarkable for peace among themſelves, conſtancy to their union, and fidelity to the leagues made with their aſſociates; whereas all the above-mentioned kingdoms, and ſuch others as are known among men to have been joined in the like leagues, were ever infeſted with domeſtic rebellions and quarrels, riſing from the ambition of princes, ſo as no confederacy could be ſo cautiouſly made, but they would find ways to elude it, or ſo ſolemn and ſacred, but they would in far leſs time break through it: I will confeſs, that kingdoms have ſometimes been as free from civil diſturbances; and that leagues made between ſeveral princes have been as conſtantly and religiouſly obſerved, as by commonwealths. But if no ſuch thing do appear in the world, and no man who is not impudent or ignorant dare pretend it, I may juſtly conclude, that tho' every commonwealth hath its action ſuitable to its conſtitution, and that many aſſociated together are not ſo free from diſturbances, as thoſe that wholly depend upon the authority of a mother-city; yet we know of none that have not been, and are more regular and quiet than any principalities; and as to foreign wars, they ſeek or avoid them according to their various conſtitutions.

SECT.

SECT. XXIII.

That is the beſt government, which beſt provides for war.

OUR author, having huddled up all popular and mixed governments into one, has, in ſome meaſure, forced me to explain the various conſtitutions and principles upon which they are grounded: but as the wiſdom of a father is ſeen, not only in providing bread for his family, or increaſing his patrimonial eſtate, but in making all poſſible proviſion for the ſecurity of it; ſo that government is evidently the beſt, which, not relying upon what it does at firſt enjoy, ſeeks to increaſe the number, ſtrength, and riches, of the people; and by the beſt diſcipline to bring the power ſo improved into ſuch order as may be of moſt uſe to the public. This comprehends all things conducing to the adminiſtration of juſtice, the preſervation of domeſtic peace, and the increaſe of commerce, that the people, being pleaſed with their preſent condition, may be filled with love to their country, encouraged to fight boldly for the public cauſe, which is their own; and as men do willingly join with that which proſpers, that ſtrangers may be invited to fix their habitations in ſuch a city, and to eſpouſe the principles that reign in it. This is neceſſary for ſeveral reaſons; but I ſhall principally inſiſt upon one, which is, that all things in their beginning are weak: the whelp of a lion newly born has neither ſtrength nor fierceneſs. He that builds a city, and does not intend it ſhould increaſe, commits as great an abſurdity, as if he ſhould deſire his child might ever continue under the ſame weakneſs in which he is born. If it do not grow, it muſt pine and periſh; for in this world nothing is permanent; that which does not grow better will grow worſe. This increaſe alſo is uſeleſs, or perhaps hurtful, if it be not in ſtrength, as well as in riches, or number: for every one is apt to ſeize upon ill-guarded treaſures; and the terror that the city of London was poſſeſſed with, when a few Dutch ſhips came to Chatham, ſhews, that no numbers of men, tho' naturally valiant, are able to defend themſelves, unleſs they be well armed, diſciplined, and conducted. Their multitude brings confuſion: their wealth, when it is like to be made a prey, increaſes the fears of the owners; and they, who if they were brought into good order, might conquer a great part of the world, being deſtitute of it, durſt not think of defending themſelves.

If it be ſaid, that the wiſe father, mentioned by me, endeavours to ſecure his patrimony by law, not by force; I anſwer, that all defence terminates in force; and if a private man does not prepare to defend his eſtate with his own force, it is becauſe he lives under the protection of the law, and expects the force of the magiſtrate ſhould be a ſecurity to him: but kingdoms and commonwealths, acknowledging no ſuperior, except God alone, can reaſonably hope to be pro-

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protected by him only; and by him, if with induſtry and courage they make uſe of the means he has given them for their own defence. God helps thoſe who help themſelves; and men are by ſeveral reaſons (ſuppoſe to prevent the increaſe of a ſuſpected power) induced to ſuccour an induſtrious and brave people: but ſuch as neglect the means of their own preſervation, are ever left to periſh with ſhame. Men cannot rely upon any league: the ſtate that is defended by one potentate againſt another becomes a ſlave to their protector: mercenary ſoldiers always want fidelity or courage, and moſt commonly both. If they are not corrupted or beaten by the invader, they make a prey of their maſters. Theſe are the followers of camps, who have neither faith nor piety *, but prefer gain before right. They who expoſe their blood to ſale, look where they can make the beſt bargain, and never fail of pretences for following their intereſts.

* — Ibi fas, ubi maxima merces. Lucan.

Moreover, private families may by ſeveral arts increaſe their wealth, as they increaſe in number; but when a people multiplies (as they will always do in a good climate under a good government) ſuch an enlargement of territory as is neceſſary for their ſubſiſtence can be acquired only by war. This was known to the northern nations that invaded the Roman empire; but for want of ſuch conſtitutions as might beſt improve their ſtrength and valour, the numbers they ſent out when they were overburdened, provided well for themſelves, but were of no uſe to the countries they left; and whilſt thoſe Goths, Vandals, Franks, and Normans, enjoyed the moſt opulent and delicious provinces of the world, their fathers languiſhed obſcurely in their frozen climates. For the like reaſons, or through the ſame defect, the Switzers are obliged to ſerve other princes; and often to employ that valour in advancing the power of their neighbours, which might be uſed to increaſe their own. Genoa, Lucca, Geneva, and other ſmall commonwealths, having no wars, are not able to nouriſh the men they breed; but ſending many of their children to ſeek their fortunes abroad, ſcarce a third part of thoſe that are born among them die in thoſe cities; and if they did not take this courſe, they would have no better than the nations inhabiting near the river Niger, who ſell their children as the increaſe of their flocks.

This does not leſs concern monarchies than commonwealths; nor the abſolute leſs than the mixed: all of them have been proſperous or miſerable, glorious or contemptible, as they were better or worſe armed, diſciplined, or conducted. The Aſſyrian valour was irreſiſtable under Nabuchodonozor; but was brought to nothing under his baſe and luxurious grandſon Belſhazzar: the Perſians, who under Cyrus conquered Aſia, were like ſwine expoſed to ſlaughter when their diſcipline failed, and they were commanded by his proud, cruel, and cowardly ſucceſſors. The Macedonian army overthrown by Paulus Emilius was not leſs in number than that with which Alexander gained the empire of the eaſt; and perhaps had not been inferior in valour, if it had been as well commanded. Many poor and almoſt unknown nations have been carried to ſuch a height of glory by the bravery of their princes, that I might incline to think their

their government as fit as any other for diſciplining a people to war, if their virtues continued in their families, or could be tranſmitted to their ſucceſſors. The impoſſibility of this is a breach never to be repaired; and no account is to be made of the good that is always certain, and ſeldom enjoyed. This diſeaſe is not only in abſolute monarchies, but in thoſe alſo where any regard is had to ſucceſſion of blood, tho' under the ſtricteſt limitations. The fruit of all the victories gained by Edward the Firſt and Third, or Henry the Fifth of England, periſhed by the baſeneſs of their ſucceſſors: the glory of our arms was turned into ſhame; and we, by the loſs of treaſure, blood, and territory, ſuffered the puniſhment of their vices. The effects of theſe changes are not always equally violent; but they are frequent, and muſt fall out as often as occaſion is preſented. It was not poſſible for Lewis the Thirteenth of France to purſue the great deſigns of Henry the Fourth: Chriſtina of Sweden could not ſupply the place of her brave father; nor the preſent king in his infancy accompliſh what the great Charles Guſtavus had nobly undertaken: and no remedy can be found for this mortal infirmity, unleſs the power be put into the hands of thoſe who are able to execute it, and not left to the blindneſs of fortune. When the regal power is committed to an annual or otherwiſe choſen magiſtracy, the virtues of excellent men are of uſe, but all does not depend upon their perſons: one man finiſhes what another had begun; and when many are by practice rendered able to perform the ſame things, the loſs of one is eaſily ſupplied by the election of another. When good principles are planted, they do not die with the perſon that introduced them; and good conſtitutions remain, tho' the authors of them periſh. Rome did not fall back into ſlavery when Brutus was killed, who had led them to recover their liberty: others like to him purſued the ſame ends; and notwithſtanding the loſs of ſo many great commanders conſumed in their almoſt continual wars, they never wanted ſuch as were fit to execute whatever they could deſign. A well-governed ſtate is as fruitful to all good purpoſes, as the ſeven-headed ſerpent is ſaid to have been in evil; when one head is cut off, many riſe up in the place of it. Good order being once eſtabliſhed, makes good men; and as long as it laſts, ſuch as are fit for the greateſt employments will never be wanting. By this means the Romans could not be ſurpriſed: no king or captain ever invaded them, who did not find many excellent commanders to oppoſe him; whereas they themſelves found it eaſy to overthrow kingdoms, tho' they had been eſtabliſhed by the braveſt princes, through the baſeneſs of their ſucceſſors. SECT. 23.

But if our author ſay true, it is of no advantage to a popular ſtate to have excellent men; and therefore he impoſes "a neceſſity upon "every people to chuſe the worſt men for being the worſt, and moſt "like to themſelves; leſt that if virtuous and good men ſhould come "into power, they ſhould be excluded for being vicious and wicked, "&c. Wiſe men would ſeize upon the ſtate, and take it from the "people." For the underſtanding of theſe words, it is good to conſider whether they are to be taken ſimply, as uſually applied to the devil, and ſome of his inſtruments, or relatively, as to the thing in

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queſtion: if ſimply, it muſt be concluded, that Valerius, Brutus, Cincinnatus, Capitolinus, Mamercus, Paulus Emilius, Naſica, and others like to them, were not only the worſt men of the city; but that they were ſo often advanced to the ſupreme magiſtracies, becauſe they were ſo: if in the other ſenſe relating to magiſtracy, and the command of armies, the worſt are the moſt ignorant, unfaithful, ſlothful, or cowardly; and our author to make good his propoſition, muſt prove, that when the people of Rome, Carthage, Athens, and other ſtates, had the power of chuſing whom they pleaſed, they did chuſe Camillus, Corvinus, Torquatus, Fabius, Rullus, Scipio, Amilcar, Hannibal, Aſdrubal, Pelopidas, Epaminondas, Pericles, Ariſtides, Themiſtocles, Phocion, Alcibiades, and others like to them, for their ignorance, infidelity, ſloth, and cowardice; and on account of thoſe vices, moſt like to thoſe who choſe them. But if theſe were the worſt, I deſire to know what wit or eloquence can deſcribe or comprehend the excellency of the beſt; or of the diſcipline that brings whole nations to ſuch perfection, that worſe than theſe could not be found among them? And if they were not ſo, but ſuch as all ſucceeding ages have juſtly admired for their wiſdom, virtue, induſtry, and valour, the impudence of ſo wicked and falſe an aſſertion ought to be rejected with ſcorn and hatred.

But if all governments, whether monarchical or popular, abſolute or limited, deſerve praiſe or blame as they are well or ill conſtituted for making war; and that the attainment of this end do intirely depend upon the qualifications of the commanders, and the ſtrength, courage, number, affection, and temper of the people out of which the armies are drawn; thoſe governments muſt neceſſarily be the beſt which take the beſt care that thoſe armies may be well commanded; and ſo provide for the good of the people, that they may daily increaſe in number, courage, and ſtrength, and be ſo ſatisfied with the preſent ſtate of things, as to fear a change, and fight for the preſervation or advancement of the public intereſt as of their own. We have already found, that in hereditary monarchies no care at all is taken of the commander: he is not choſen, but comes by chance; and does not only frequently prove defective, but for the moſt part utterly uncapable of performing any part of his duty; whereas in popular governments excellent men are generally choſen; and there are ſo many of them, that if one or more periſh, others are ready to ſupply their places. And this diſcourſe having (if I miſtake not) in the whole ſeries, ſhewn, that the advantages of popular governments, in relation to the increaſe of courage, number, and ſtrength in a people, out of which armies are to be formed, and bringing them to ſuch a temper as prepares them bravely to perform their duty, are as much above thoſe of monarchies, as the prudence of choice ſurpaſſes the accidents of birth; it cannot be denied, that in both reſpects the part which relates to war is much better performed in popular governments than in monarchies.

That which we are by reaſon led to believe, is confirmed to us by experience. We every-where ſee the difference between the courage of men fighting for themſelves, and their poſterity, and thoſe that ſerve a maſter who by good ſucceſs is often rendered inſupportable.

This

This is of ſuch efficacy, that no king could ever boaſt to have overthrown any conſiderable commonwealth, unleſs it were divided within itſelf, or weakened by wars made with ſuch as were alſo free; which was the caſe of the Grecian commonwealths, when the Macedonians fell in upon them: whereas the greateſt kingdoms have been eaſily deſtroyed by commonwealths; and theſe alſo have loſt all ſtrength, valour, and ſpirit, after the change of their government. The power and virtue of the Italians grew up, decayed, and periſhed, with their liberty. When they were divided into many commonwealths, every one of them was able to ſend out great armies, and to ſuffer many defeats before they were ſubdued; ſo that their cities were delivered up by the old men, women, and children, when all thoſe who were able to bear arms had been ſlain: and when they were all brought under the Romans, either as aſſociates or ſubjects, they made the greateſt ſtrength that ever was in the world. SECT. 23.

Alexander of Epirus was in valour thought equal, and in power little inferior, to Alexander of Macedon: but having the fortune to attack thoſe who had been brought up in liberty, taught to hazard or ſuffer all things for it, and to think that God has given to men hands and ſwords only to defend it, he periſhed in his attempt; whilſt the other encountering ſlaviſh nations, under the conduct of proud, cruel, and for the moſt part unwarlike tyrants, became maſter of Aſia.

Pyrrhus ſeems to have been equal to either of them; but the victories he obtained by an admirable valour and conduct, coſt him ſo dear, that he deſired peace with thoſe enemies who might be defeated, not ſubdued.

Hannibal, wanting the prudence of Pyrrhus, loſt the fruits of all his victories; and being torn out of Italy, where he had neſted himſelf, fell under the ſword of thoſe whoſe fathers he had defeated or ſlain; and died a baniſhed man from his ruined country.

The Gauls did once bring Rome, when it was ſmall, to the brink of deſtruction; but they left their carcaſes to pay for the miſchiefs they had done; and in ſucceeding times their invaſions were mentioned as tumults rather than wars.

The Germans did perhaps ſurpaſs them in numbers and ſtrength, and were equal to them in fortune as long as Rome was free. They often entered Italy; but they continued not long there, unleſs under the weight of their chains; whereas the ſame nations, and others like to them, aſſaulting that country, or other provinces under the emperors, found no other difficulty than what did ariſe upon conteſts among themſelves who ſhould be maſter of them. No manly virtue or diſcipline remained among the Italians: thoſe who governed them, relied upon tricks and ſhifts; they who could not defend themſelves, hired ſome of thoſe nations to undertake their quarrels againſt others. Theſe trinklings could not laſt: the Goths, ſcorning to depend upon thoſe who in valour and ſtrength were much inferior to themſelves, ſeized upon the city that had commanded the world, whilſt Honorius was ſo buſy in providing for his hens, that he could not think of defending it. Arcadius had the luck not to loſe his

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his principal city; but paſſing his time among fidlers, players, eunuchs, cooks, dancers, and buffoons, the provinces were ſecurely plundered and ranſacked by nations, that are known only from their victories againſt him.

It is in vain to ſay, that this proceeded from the fatal corruption of that age; for that corruption proceeded from the government, and the enſuing deſolation was the effect of it. And as the like diſorder in government has been ever ſince in Greece, and the greateſt part of Italy, thoſe countries which for extent, riches, convenience of ſituation, and numbers of men, are equal to the beſt in the world, and for the wit, courage, and induſtry of the natives, perhaps juſtly preferable to any, have ſince that time been always expoſed as a prey to the firſt invader. Charles the Eighth of France is by Guicciardin, and other writers, repreſented as a prince equally weak in body, mind, money, and forces: but as an ill hare is ſaid to make a good dog, he conquered the beſt part of Italy without breaking a lance. Ferdinand and Alphonſo of Arragon, kings of Naples, had governed by trepanners, falſe witneſſes, corrupt judges, mercenary ſoldiers, and other miniſters of iniquity; but theſe could afford no help againſt an invader; and neither the oppreſſed nobility, nor people, concerning themſelves in the quarrel, they who had been proud, fierce, and cruel, againſt their poor ſubjects, never durſt look an enemy in the face; and the father dying with anguiſh and fear, the ſon ſhamefully fled from his ill governed kingdom.

The ſame things are no leſs evident in Spain. No people ever defended themſelves with more obſtinacy and valour than the Spaniards did againſt the Carthaginians and Romans, who ſurpaſſed them in wealth and ſkill. Livy calls them "gentem ad bella gerenda & re-" paranda natam," and who generally killed themſelves when they were maſtered and diſarmed, "nullam ſine armis vitam eſſe rati." But tho' the mixture of Roman blood could not impair their race, and the conjunction of the Goths had improved their force; yet no more was required for the overthrow of them all, than the weakneſs and baſeneſs of the two lewd tyrants Witza and Rodrigo, who diſdained all laws, and reſolved to govern according to their luſt. They who for more than two hundred years had reſiſted the Romans, were intirely ſubdued by the vile, half-naked Moors, in one ſlight ſkirmiſh; and do not to this day know what became of the king who brought the deſtruction upon them. That kingdom after many revolutions is with many others come to the houſe of Auſtria, and enjoys all the wealth of the Indies; whereupon they are thought to have affected an univerſal monarchy. "Sed ut ſunt levia aulicorum ingenia," this was grounded upon nothing except their own vanity: they had money and craft; but, wanting that ſolid virtue and ſtrength, which makes and preſerves conqueſts, their kings have nothing but Milan that did not come to them by marriage: and tho' they have not received any extraordinary diſaſters in war, yet they languiſh and conſume through the defects of their own government, and are forced to beg aſſiſtance from their mortal and formerly deſpiſed enemies. Theſe are the beſt hopes of defence that they have from abroad; and the only enemy an invader ought to fear in their deſolate territories, is that

that want and famine which teſtifies the good order, ſtrength, and ſtability of our author's divine monarchy; the profound wiſdom of their kings in ſubtilly finding out ſo ſure a way of defending the country; their paternal care in providing for the good of their ſubjects; and that whatſoever is defective in the prince, is aſſuredly ſupplied by the ſedulity of a good council. SECT. 23.

We have already ſaid enough to obviate the objections that may be drawn from the proſperity of the French monarchy. The beauty of it is falſe and painted. There is a rich and haughty king, who is bleſſed with ſuch neighbours as are not likely to diſturb him, and has nothing to fear from his miſerable ſubjects; but the whole body of that ſtate is full of boils, and wounds, and putrid ſores: there is no real ſtrength in it. The people are ſo unwilling to ſerve him, that he is ſaid to have put to death above fourſcore thouſand of his own ſoldiers within the ſpace of fifteen years, for flying from their colours; and if he were vigorouſly attacked, little help could be expected from a diſcontented nobility, or a ſtarving and deſpairing people. If to diminiſh the force of theſe arguments and examples, it be ſaid, that in two or three thouſand years all things are changed; the antient virtue of mankind is extinguiſhed; and the love that every one had to his country is turned into a care of his private intereſts: I anſwer, that time changes nothing, and the changes produced in this time proceed only from the change of governments. The nations which have been governed arbitrarily, have always ſuffered the ſame plagues, and been infected with the ſame vices; which is as natural, as for animals ever to generate according to their kinds, and fruits to be of the ſame nature with the roots and ſeeds from which they come. The ſame order that made men valiant and induſtrious in the ſervice of their country during the firſt ages, would have the ſame effect, if it were now in being: men would have the ſame love to the public as the Spartans and Romans had, if there was the ſame reaſon for it. We need no other proof of this than what we have ſeen in our own country, where, in a few years, good diſcipline, and a juſt encouragement given to thoſe who did well, produced more examples of pure, complete, incorruptible, and invincible virtue than Rome or Greece could ever boaſt; or if more be wanting, they may eaſily be found among the Switzers, Hollanders, and others: but it is not neceſſary to light a candle to the ſun.

SECT. XXIV.

Popular governments are leſs ſubject to civil diſorders than monarchies; manage them more ably, and more eaſily recover out of them.

IT is in vain to ſeek a government in all points free from a poſſibility of civil wars, tumults, and ſeditions: that is a bleſſing denied to this life, and reſerved to complete the felicity of the next. But if theſe are to be accounted the greateſt evils that can fall upon a people, the rectitude or defects of governments will beſt appear, if we examine which ſpecies is more or leſs expoſed to or exempted from them.

This may be done two ways.

1. By ſearching into the cauſes from whence they may or uſually do ariſe.

2. Which kind has actually been moſt frequently and dangerouſly diſturbed by them.

To the firſt: ſeditions, tumults, and wars, do ariſe from miſtake, or from malice; from juſt occaſions, or unjuſt: from miſtake, when a people thinks an evil to be done or intended, which is not done nor intended, or takes that to be evil which is done, tho' in truth it be not ſo. Well regulated cities may fall into theſe errors. The Romans being jealous of their newly recovered liberty, thought that Valerius Publicola deſigned to make himſelf king, when he built a houſe in a place that ſeemed too ſtrong and eminent for a private man. The Spartans were not leſs ſuſpicious of Lycurgus; and a lewd young fellow in a ſedition put out one of his eyes: but no people ever continued in a more conſtant affection to their beſt deſerving citizens, than both the Romans and Spartans afterwards manifeſted to thoſe virtuous and wrongfully ſuſpected men.

Sometimes the fact is true, but otherwiſe underſtood than was intended. When the Tarquins were expelled from Rome, the patricians retained to themſelves the principal magiſtracies; but never thought of bringing back kings, or of ſetting up a corrupt oligarchy among themſelves, as the plebeians imagined: and this miſtake being diſcovered, the fury they had conceived, vaniſhed; and they who ſeemed to intend nothing leſs than the extirpation of all the patrician families, grew quiet. Menenius Agrippa appeaſed one of the moſt violent ſeditions that ever happened amongſt them (till civil intereſts were purſued by armed troops) with a fable of the ſeveral parts of the body that murmured againſt the belly: and the moſt dangerous of all was compoſed by creating tribunes to protect them. Some of the patrician young men had favoured the decemviri, and others being unwilling to appear againſt them, the people believed they had all conſpired with thoſe new tyrants: but Valerius and Horatius putting themſelves at the head of thoſe who fought their deſtruction,

ſtruction, they perceived their error, and looked upon the patricians as the beſt defenders of their liberties: "et inde," ſays Livy, "auram "libertatis captare, unde ſervitutem timuiſſent." Democratical governments are moſt liable to theſe miſtakes: in ariſtocracies they are ſeldom ſeen, and we hear of none in Sparta after the eſtabliſhment of the laws by Lycurgus; but abſolute monarchies ſeem to be totally exempted from them. The miſchiefs deſigned are often diſſembled or denied, till they are paſt all poſſibility of being cured by any other way than force: and ſuch as are by neceſſity driven to uſe that remedy, know they muſt perfect their work, or periſh. He that draws his ſword againſt the prince, ſay the French, ought to throw away the ſcabbard; for tho' the deſign be never ſo juſt, yet the authors are ſure to be ruined if it miſcarry. Peace is ſeldom made, and never kept, unleſs the ſubject retain ſuch a power in his hands, as may oblige the prince to ſtand to what is agreed; and in time ſome trick is found to deprive them of that benefit. SECT. 24.

Seditions proceeding from malice are ſeldom or never ſeen in popular governments; for they are hurtful to the people, and none have ever willingly and knowingly hurt themſelves. There may be, and often is malice in thoſe who excite them; but the people is ever deceived, and whatſoever is thereupon done, ought to be imputed to error, as I ſaid before. If this be diſcovered in time, it uſually turns to the deſtruction of the contriver; as in the caſes of Manlius Capitolinus, Spurius Melius, and Sp. Caſſius: if not, for the moſt part it produces a tyranny, as in thoſe of Agathocles, Dionyſius, Piſiſtratus, and Cæſar. But in abſolute monarchies, almoſt all the troubles that ariſe, proceed from malice; they cannot be reformed, the extinction of them is exceeding difficult, if they have continued long enough to corrupt the people; and thoſe who appear againſt them, ſeek only to ſet up themſelves, or their friends. Thus we ſee, that in the civil wars of the eaſt, the queſtion was, whether Artaxerxes or Cyrus, Phraartes or Bardanes, ſhould reign over the Perſians and Parthians: the people ſuffered equally from both whilſt the conteſts laſted; and the deciſion left them under the power of a proud and cruel maſter. The like is ſeen in all places. After the death of Brutus and Caſſius, no war was ever undertaken in the Roman empire upon a better account than one man's private concernments: the provinces ſuffered under all; and he, whom they had aſſiſted to overthrow one wicked tyrant, very often proved worſe than his predeceſſor. And the only ground of all the diſſenſions with which France was vexed under the princes of Meroveus and Pepin's races, were, which of them ſhould reign, the people remaining miſerable under them all.

The caſe is not much different in mixed monarchies: ſome wars may be undertaken upon a juſt and public account, but the pretences are commonly falſe: a laſting reformation is hardly introduced, an intire change often diſliked. And tho' ſuch kingdoms are frequently and terribly diſtracted, as appears by the before-mentioned examples of England, Spain, &c. the quarrels are, for the moſt part, begun upon perſonal titles, as between Henry the Firſt and Robert; Stephen and Maud; or the houſes of Lancaſter and York: and the people

CHAP. II. people who get nothing by the victory which way ſoever it fall, and might therefore prudently leave the competitors to decide their own quarrels, like Theoreſtes and Polinices, with their own ſwords, become cruelly engaged in them.

It may ſeem ſtrange to ſome that I mention ſeditions, tumults, and wars, upon juſt occaſions; but I can find no reaſon to retract the term. God intending that men ſhould live juſtly with one another, does certainly intend, that he or they who do no wrong, ſhould ſuffer none; and the law that forbids injuries, were of no uſe, if no penalty might be inflicted on thoſe that will not obey it. If injuſtice therefore be evil, and injuries forbidden, they are alſo to be puniſhed; and the law inſtituted for their prevention muſt neceſſarily intend the avenging of ſuch as cannot be prevented. The work of the magiſtracy is to execute this law; the ſword of juſtice is put into their hands to reſtrain the fury of thoſe within the ſociety who will not be a law to themſelves; and the ſword of war to protect the people againſt the violence of foreigners. This is without exception, and would be in vain if it were not. But the magiſtrate, who is to protect the people from injury, may, and is often known not to have done it: he ſometimes renders his office uſeleſs by neglecting to do juſtice; ſometimes miſchievous by overthrowing it. This ſtrikes at the root of God's general ordinance, that there ſhould be laws; and the particular ordinances of all ſocieties that appoint ſuch as ſeem beſt to them. The magiſtrate therefore is comprehended under both, and ſubject to both, as well as private men.

The ways of preventing or puniſhing injuries are judicial or extrajudicial. Judicial proceedings are of force againſt thoſe who ſubmit or may be brought to trial, but are of no effect againſt thoſe who reſiſt, and are of ſuch power that they cannot be conſtrained. It were abſurd to cite a man to appear before a tribunal who can awe the judges, or has armies to defend him; and impious to think, that he who has added treachery to his other crimes, and uſurped a power above the law, ſhould be protected by the enormity of his wickedneſs. Legal proceedings therefore are to be uſed when the delinquent ſubmits to the law; and all are juſt, when he will not be kept in order by the legal.

The word ſedition is generally applied to all numerous aſſemblies, without or againſt the authority of the magiſtrate, or of thoſe who aſſume that power. Athaliah and Jezebel were more ready to cry out treaſon than David; and examples of that ſort are ſo frequent, that I need not alledge them.

Tumult is from the diſorderly manner of thoſe aſſemblies, where things can ſeldom be done regularly; and war is that "decertatio per "vim," or trial by force, to which men come when other ways are ineffectual.

If the laws of God and men are therefore of no effect, when the magiſtracy is left at liberty to break them; and if the luſts of thoſe who are too ſtrong for the tribunals of juſtice, cannot be otherwiſe reſtrained than by ſedition, tumults, and war, thoſe ſeditions, tumults, and wars, are juſtified by the laws of God and man.

I will

I will not take upon me to enumerate all the caſes in which this may be done, but content myſelf with three, which have moſt frequently given occaſion for proceedings of this kind. SECT. 24.

The firſt is, When one or more men take upon them the power and name of a magiſtracy, to which they are not juſtly called.

The ſecond, When one or more, being juſtly called, continue in their magiſtracy longer than the laws by which they are called do preſcribe.

And the third, When he or they who are rightly called, do aſſume a power, tho' within the time preſcribed, that the law does not give; or turn that which the law does give, to an end different and contrary to that which is intended by it.

For the firſt; Filmer forbids us to examine titles: he tells us, we muſt ſubmit to the power, whether acquired by uſurpation or otherwiſe, not obſerving the miſchievous abſurdity of rewarding the moſt deteſtable villainies with the higheſt honours, and rendering the veneration due to the ſupreme magiſtrate as father of the people, to one who has no other advantage above his brethren, than what he has gained by injuriouſly diſpoſſeſſing or murdering him that was ſo. Hobbes, fearing the advantages that may be taken from ſuch deſperate nonſenſe, or not thinking it neceſſary to his end to carry the matter ſo far, has no regard at all to him who comes in without title or conſent; and, denying him to be either king or tyrant, gives him no other name than "hoſtis & latro;" and allows all things to be lawful againſt him, that may be done to a public enemy or pirate: which is as much as to ſay, any man may deſtroy him how he can. Whatever he may be guilty of in other reſpects, he does in this follow the voice of mankind, and the dictates of common ſenſe: for no man can make himſelf a magiſtrate for himſelf; and no man can have the right of a magiſtrate, who is not a magiſtrate. If he be juſtly accounted an enemy to all, who injures all; he above all muſt be the public enemy of a nation, who, by uſurping a power over them, does the greateſt and moſt public injury that a people can ſuffer: for which reaſon, by an eſtabliſhed law among the moſt virtuous nations, every man might kill a tyrant; and no names are recorded in hiſtory with more honour, than of thoſe who did it. De Civ. l. ii.

Theſe are by other authors called "tyranni ſine titulo:" and that name is given to all thoſe who obtain the ſupreme power by illegal and unjuſt means. The laws which they overthrow can give them no protection; and every man is a ſoldier againſt him who is a public enemy.

The ſame rule holds, tho' they are more in number; as the magi, who uſurped the dominion of Perſia after the death of Cambyſes; the thirty tyrants at Athens overthrown by Thraſybulus; thoſe of Thebes ſlain by Pelopidas; the decemviri of Rome, and others: for tho' the multitude of offenders may ſometimes procure impunity, yet that act which is wicked in one, muſt be ſo in ten or twenty; and whatſoever is lawful againſt one uſurper, is ſo againſt them all.

2. If thoſe who were rightly created, continue beyond the time limited by the law, it is the ſame thing. That which is expired, is as if it had never been. He that was created conſul for a year, or

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dictator for ſix months, was after that a private man; and if he had continued in the exerciſe of his magiſtracy, had been ſubject to the ſame puniſhment as if he had uſurped it at the firſt. This was known to Epaminondas, who finding that his enterprize againſt Sparta could not be accompliſhed within the time for which he was made Bœotarches, rather choſe to truſt his countrymen with his life than to deſiſt; and was ſaved merely through an admiration of his virtue, aſſurance of his good intentions, and the glory of the action.

The Roman decemviri, tho' duly elected, were proceeded againſt as private men uſurping the magiſtracy, when they continued beyond their time. Other magiſtrates had ceaſed; there was none that could regularly call the ſenate or people to an aſſembly: but when their ambition was manifeſt, and the people exaſperated by the death of Virginia, they laid aſide all ceremonies. The ſenate and people met; and, exerciſing their authority in the ſame manner as if they had been regularly called by the magiſtrate appointed to that end, they abrogated the power of the decemviri, proceeded againſt them as enemies and tyrants, and by that means preſerved themſelves from utter ruin.

3. The ſame courſe is juſtly uſed againſt a legal magiſtrate, who takes upon him (tho' within the time preſcribed by the law) to exerciſe a power which the law does not give; for in that reſpect he is a private man, "quia," as Grotius ſays, "eatenus non habet imperium;" and may be reſtrained as well as any other, becauſe he is not ſet up to do what he liſts, but what the law appoints for the good of the people; and as he has no other power than what the law allows, ſo the ſame law limits and directs the exerciſe of that which he has. This right, naturally belonging to nations, is no-way impaired by the name of ſupreme given to their magiſtrates; for it ſignifies no more, than that they do act ſovereignly in the matters committed to their charge. Thus are the parliaments of France called "cours ſo-" veraines;" for they judge of life and death, determine controverſies concerning eſtates; and there is no appeal from their decrees: but no man ever thought, that it was therefore lawful for them to do what they pleaſed; or that they might not be oppoſed, if they ſhould attempt to do that which they ought not. And tho' the Roman dictators and conſuls were ſupreme magiſtrates, they were ſubject to the people, and might be puniſhed, as well as others, if they tranſgreſſed the law. Thuanus carries the word ſo far, that when Barlotta, Giuſtiniano, and others who were but colonels, were ſent as commanders in chief of three or four thouſand men upon an enterprize, he always ſays, "Summum imperium ei delatum." Grotius explains this point, by diſtinguiſhing thoſe who have the "ſummum im-" perium ſummo modo," from thoſe who have it "modo non ſummo." I know not where to find an example of this ſovereign power, enjoyed without reſtriction, under a better title than "occupation;" which relates not to our purpoſe, who ſeek only that which is legal and juſt. Therefore, laying aſide that point for the preſent, we may follow Grotius in examining the right of thoſe who are certainly limited: "Ubi "partem imperii habet rex, partem ſenatus ſive populus;" in which caſe he ſays, "Regi in partem non ſuam involanti, vis juſta opponi poteſt,"

Grot. de jur. bel. & pac. l. ii.

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inaſmuch as they who have a part, cannot but have a right of de- SECT. 24.
fending that part; "quia, data facultate, datur jus facultatem tuen-
"di," without which it could be of no effect.

The particular limits of the rights belonging to each, can only be judged by the preciſe letter, or general intention of the law. The dukes of Venice have certainly a part in the government, and could not be called magiſtrates, if they had not. They are ſaid to be ſupreme; all laws and public acts bear their names. The embaſſador of the ſtate ſpeaking to pope Paul the 5th, denied that he acknowledged any other ſuperior than God. But they are ſo well known to be under the power of the law, that divers of them have been put to death for tranſgreſſing it; and a marble gallows is ſeen at the foot of the ſtairs in St. Mark's palace, upon which ſome of them, and no others, have been executed. But if they may be duly oppoſed, when they commit undue acts, no man of judgement will deny, that if one of them by an outrageous violence ſhould endeavour to overthrow the law, he might by violence be ſuppreſſed and chaſtiſed. Thuan. l. cxxxvii.

Again, ſome magiſtrates are entruſted with a power of providing ſhips, arms, ammunition, and victuals for war; raiſing and diſciplining ſoldiers, appointing officers to command in forts and gariſons, and making leagues with foreign princes and ſtates. But if one of theſe ſhould imbezel, ſell, or give to an enemy thoſe ſhips, arms, ammunition, or proviſions; betray the forts; employ only, or principally, ſuch men as will ſerve him in thoſe wicked actions; and, contrary to the truſt repoſed in him, make ſuch leagues with foreigners, as tend to the advancement of his perſonal intereſts, and to the detriment of the public; he abrogates his own magiſtracy; and the right he had, periſhes (as the lawyers ſay) "fruſtratione finis." He cannot be protected by the law which he has overthrown, nor obtain impunity for the crimes from his authority that was conferred upon him, only that he might do good with it. He was "ſingulis major," on account of the excellence of his office; but "univerſis minor," from the nature and end of the inſtitution. The ſureſt way of extinguiſhing his prerogative, was by turning it to the hurt of thoſe who gave it. When matters are brought to this poſture, the author of the miſchief, or the nation, muſt periſh. A flock cannot ſubſiſt under a ſhepherd that ſeeks its ruin, nor a people under an unfaithful magiſtrate. Honour and riches are juſtly heaped upon the heads of thoſe who rightly perform their duty, becauſe the difficulty as well as the excellency of the work is great. It requires courage, experience, induſtry, fidelity, and wiſdom. The good ſhepherd, ſays our Saviour, lays down his life for his ſheep: the hireling who flies in time of danger, is repreſented under an ill character; but he that ſets himſelf to deſtroy his flock, is a wolf. His authority is incompatible with their ſubſiſtence; and whoever diſapproves tumults, ſeditions, or war, by which he may be removed from it, if gentler means are ineffectual, ſubverts the foundation of all law; exalts the fury of one man to the deſtruction, of a nation; and giving an irreſiſtible power to the moſt abominable iniquity, expoſes all that are good to be deſtroyed, and virtue to be utterly extinguiſhed.

Few

CHAP. II.

Few will allow ſuch a pre-eminence to the dukes of Venice or Genoa, the advoyers of Switzerland, or the burgomaſters of Amſterdam. Many will ſay theſe are raſcals if they prove falſe, and ought rather to be hanged, than ſuffered to accompliſh the villainies they deſign. But if this be confeſſed in relation to the higheſt magiſtrates that are among thoſe nations, why ſhould not the ſame be in all others, by what name ſoever they are called? When did God confer upon thoſe nations the extraordinary privilege of providing better for their own ſafety than others? Or was the gift univerſal, tho' the benefit accrue only to thoſe who have baniſhed great titles from among them? If this be ſo, it is not their felicity, but their wiſdom, that we ought to admire and imitate. But why ſhould any think their anceſtors had not the ſame care? Have not they, who retained in themſelves a power over a magiſtrate of one name, the like over another? Is there a charm in words, or any name of ſuch efficacy, that he who receives it ſhould immediately become maſter of thoſe that created him, whereas all others do remain for ever ſubject to them? Would the Venetian government change its nature, if they ſhould give the name of king to their prince? Are the Polanders leſs free ſince the title of king is conferred upon their dukes; or are the Moſcovites leſs ſlaves, becauſe their chief magiſtrate has no other than that of duke? If we examine things but a little, it will appear, that magiſtrates have enjoyed large powers, who never had the name of kings; and none were ever more reſtrained by laws than thoſe of Sparta, Arragon, the Goths in Spain, Hungary, Bohemia, Sweden, Denmark, Poland, and others, who had that title. There is therefore no ſuch thing as a right univerſally belonging to a name; but every one enjoys that which the laws, by which he is, confer upon him. The law that gives the power, regulates it; and they who give no more than what they pleaſe, cannot be obliged to ſuffer him to whom they give it, to take more than they thought fit to give, or to go unpuniſhed if he do. The agreements made are always confirmed by oath, and the treachery of violating them is conſequently aggravated by perjury. They are good philoſophers, and able divines, who think this can create a right to thoſe who had none; or that the laws can be a protection to ſuch as overthrow them, and give opportunity of doing the miſchiefs they deſign. If it do not, then he that was a magiſtrate, by ſuch actions returns into the condition of a private man; and whatever is lawful againſt a thief, who ſubmits to no law, is lawful againſt him.

Men who delight in cavils, may aſk, Who ſhall be the judge of theſe occaſions? and whether I intend to give to the people the deciſion of their own cauſe? To which I anſwer, that when the conteſt is between the magiſtrate and the people, the party to which the determination is referred, muſt be the judge of his own caſe; and the queſtion is only, Whether the magiſtrate ſhould depend upon the judgment of the people, or the people on that of the magiſtrate; and which is moſt to be ſuſpected of injuſtice: that is, whether the people of Rome ſhould judge Tarquin, or Tarquin judge the people. He that knew all good men abhorred him for the murder of his wife, brother, father-in-law, and the beſt of the ſenate, would certainly

ſtrike

ſtrike off the heads of the moſt eminent remaining poppies; and having incurred the general hatred of the people by the wickedneſs of his government, he feared revenge; and endeavouring to deſtroy thoſe he feared (that is the city) he might eaſily have accompliſhed his work, if the judgment had been referred to him. If the people judge Tarquin, it is hard to imagine how they ſhould be brought to give an unjuſt ſentence: they loved their former kings, and hated him only for his villainies: they did not fanſy, but know his cruelty. When the beſt were ſlain, no man that any-way reſembled them could think himſelf ſecure. Brutus did not pretend to be a fool, till, by the murder of his brother, he found how dangerous a thing it was to be thought wiſe. If the people, as our author ſays, be always lewd, fooliſh, mad, wicked, and deſirous to put the power into the hands of ſuch as are moſt like to themſelves, he and his ſons were ſuch men as they ſought, and he was ſure to find favourable judges: if virtuous and good, no injuſtice was to be feared from them, and he could have no other reaſon to decline their judgment, than what was ſuggeſted by his own wickedneſs. Caligula, Nero, Domitian, and the like, had probably the ſame conſiderations: but no man of common ſenſe ever thought that the ſenate and people of Rome did not better deſerve to judge, whether ſuch monſters ſhould reign over the beſt part of mankind to their deſtruction, than they to determine whether their crimes ſhould be puniſhed or not. SECT. 24.

If I mention ſome of theſe known caſes, every man's experience will ſuggeſt others of the like nature; and whoſoever condemns all ſeditions, tumults, and wars, raiſed againſt ſuch princes, muſt ſay, that none are wicked, or ſeek the ruin of their people, which is abſurd; for Caligula wiſhed the people had but one neck, that he might cut it off at a blow: Nero ſet the city on fire; and we have known ſuch as have been worſe than either of them: they muſt either be ſuffered to continue in the free exerciſe of their rage, that is, to do all the miſchief they deſign; or muſt be reſtrained by a legal, judicial, or extrajudicial way; and they who diſallow the extrajudicial, do as little like the judicial. They will not hear of bringing a ſupreme magiſtrate before a tribunal, when it may be done. "They will," ſays our author, "depoſe their kings." Why ſhould they not be depoſed, if they become enemies to their people, and ſet up an intereſt in their own perſons inconſiſtent with the public good, for the promoting of which they were erected? If they were created by the public conſent, for the public good, ſhall they not be removed when they prove to be of public damage? If they ſet up themſelves, may they not be thrown down? Shall it be lawful for them to uſurp a power over the liberty of others, and ſhall it not be lawful for an injured people to reſume their own? If injuſtice exalt itſelf, muſt it be for ever eſtabliſhed? Shall great perſons be rendered ſacred by rapine, perjury, and murder? Shall the crimes for which private men do juſtly ſuffer the moſt grievous puniſhments, exempt them from all, who commit them in the higheſt exceſs, with moſt power, and moſt to the prejudice of mankind? Shall the laws that ſolely aim at the prevention of crimes be made to patronize them, and become ſnares to the innocent, whom they ought to protect?

CHAP. II. Has every man given up into the common ſtore his right of avenging the injuries he may receive, that the public power, which ought to protect or avenge him, ſhould be turned to the deſtruction of himſelf, his poſterity, and the ſociety into which they enter, without any poſſibility of redreſs? Shall the ordinance of God be rendered of no effect; or the powers he hath appointed to be ſet up for the diſtribution of juſtice, be made ſubſervient to the luſts of one or a few men, and by impunity encourage them to commit all manner of crimes? Is the corruption of man's nature ſo little known, that ſuch as have common ſenſe ſhould expect juſtice from thoſe, who fear no puniſhment if they do injuſtice; or that the modeſty, integrity, and innocence, which is ſeldom found in one man, tho' never ſo cautiouſly choſen, ſhould be conſtantly found in all thoſe who by any means attain to greatneſs, and continue for ever in their ſucceſſors; or that there can be any ſecurity under their government, if they have them not? Surely if this were the condition of men living under government, foreſts would be more ſafe than cities; and it were better for every man to ſtand in his own defence, than to enter into ſocieties. He that lives alone might encounter ſuch as ſhould aſſault him upon equal terms, and ſtand or fall according to the meaſure of his courage and ſtrength; but no valour can defend him, if the malice of his enemy be upheld by a public power. There muſt therefore be a right of proceeding judicially or extrajudicially againſt all perſons who tranſgreſs the laws; or elſe thoſe laws, and the ſocieties that ſhould ſubſiſt by them, cannot ſtand; and the ends for which governments are conſtituted, together with the governments themſelves, muſt be overthrown. Extrajudicial proceedings, by ſedition, tumult, or war, muſt take place, when the perſons concerned are of ſuch power, that they cannot be brought under the judicial. They who deny this, deny all help againſt an uſurping tyrant, or the perfidiouſneſs of a lawfully created magiſtrate, who adds the crimes of ingratitude and treachery to uſurpation. Theſe of all men are the moſt dangerous enemies to ſupreme magiſtrates: for as no man deſires indemnity for ſuch crimes as are never committed, he that would exempt all from puniſhment, ſuppoſes they will be guilty of the worſt; and by concluding, that the people will depoſe them if they have the power, acknowledge, that they purſue an intereſt annexed to their perſons, contrary to that of their people, which they would not bear if they could deliver themſelves from it. This ſhewing all thoſe governments to be tyrannical, lays ſuch a burden upon thoſe who adminiſter them, as muſt neceſſarily weigh them down to deſtruction.

If it be ſaid, that the word ſedition implies that which is evil; I anſwer, that it ought not then to be applied to thoſe who ſeek nothing but that which is juſt; and tho' the ways of delivering an oppreſſed people from the violence of a wicked magiſtrate, who has armed a crew of lewd villains, and fatted them with the blood and confiſcations of ſuch as were moſt ready to oppoſe him, be extraordinary, the inward righteouſneſs of the act doth fully juſtify the authors. "He that has virtue and power to ſave a people, can never "want a right of doing it." Valerius Aſiaticus had no hand in the death

death of Caligula; but when the furious guards began tumultuouſly to inquire who had killed him, he appeaſed them with wiſhing he had been the man. No wiſe man ever aſked by what authority Thraſybulus, Harmodius, Ariſtogiton, Pelopidas, Epaminondas, Dion, Timoleon, Lucius Brutus, Publicola, Horatius, Valerius, Marcus Brutus, C. Caſſius, and the like, delivered their countries from tyrants. Their actions carried in themſelves their own juſtification, and their virtues will never be forgotten whilſt the names of Greece and Rome are remembred in the world. SECT. 24. Urinam feciſſem(a). Tac.

If this be not enough to declare the juſtice inherent in, and the glory that ought to accompany theſe works, the examples of Moſes, Aaron, Othniel, Ehud, Barak, Gideon, Samuel, Jephthah, David, Jehu, Jehoiada, the Maccabees, and other holy men raiſed up by God for the deliverance of his people from their oppreſſors, decide the queſtion. They are perpetually renowned for having led the people by extraordinary ways (which ſuch as our author expreſs under the names of ſedition, tumult, and war) to recover their liberties, and avenge the injuries received from foreign or domeſtic tyrants. The work of the apoſtles was not in their time to ſet up or pull down any civil ſtate; but they ſo behaved themſelves in relation to all the powers of the earth, that they gained the name of peſtilent, ſeditious fellows, diſturbers of the peace; and left it as an inheritance to thoſe, who, in ſucceeding ages, by following their ſteps, ſhould deſerve to be called their ſucceſſors; whereby they were expoſed to the hatred of corrupt magiſtrates, and brought under the neceſſity of periſhing by them, or defending themſelves againſt them; and he that denies them that right, does at once condemn the moſt glorious actions of the wiſeſt, beſt, and holieſt men that have been in the world, together with the laws of God and man, upon which they were founded.

Nevertheleſs, there is a ſort of ſedition, tumult, and war, proceeding from malice, which is always deteſtable, aiming only at the ſatisfaction of private luſt, without regard to the public good. This cannot happen in a popular government, unleſs it be amongſt the rabble; or when the body of the people is ſo corrupted, that it cannot ſtand; but is moſt frequent in, and natural to, abſolute monarchies. When Abimelech deſired to make himſelf king, he raiſed a tumult among the baſeſt of the people: he hired light and vain perſons, ſome tranſlations call them lewd vagabonds, killed his brethren, but periſhed in his deſign; the corrupt party that favoured him not having ſtrength enough to ſubdue the other, who were more ſincere. * Sp. Melius, † Sp. Caſſius, and ‡ Manlius, attempted the like in Rome: they acted maliciouſly, their pretences to procure the public good were falſe. It is probable, that ſome in the city were as bad as they, and knew that miſchief was intended; but the body of the people not being corrupted, they were ſuppreſſed. It appeared, Judg. ix. * Livy l. iv. c. 13, 14. † Id. l. ii. c. 41. ‡ Id. l. vi. c. 11—20.

(a) This is not told any-where I believe in Tacitus. The whole life of Caligula, and the beginning of Claudius's reign, are loſt. The ſixth book of his annals finiſhes with the death of Tiberius, and the eleventh opens with an account of this Valerius Aſiaticus in the time of Claudius. The fact is told by Dion Caſſius, at the end of his 59th book.

CHAP. II.

appeared, ſays Livy, "nihil eſſe minus populare quam regnum:" they who had favoured Manlius, condemned him to death, when it was proved, that "egregias alioqui virtutes fœda regni cupidine macu-"lâſſet." But when the people is generally corrupted, ſuch deſigns ſeldom miſcarry, and the ſucceſs is always the erection of a tyranny. Nothing elſe can pleaſe vain and profligate perſons, and no tyrannny was ever ſet up by ſuch as were better qualified. The ways of attaining it have always been by corrupting the manners of the people, bribing ſoldiers, entertaining mercenary ſtrangers, opening priſons, giving liberty to ſlaves, alluring indigent perſons with hopes of aboliſhing debts, coming to a new diviſion of lands, and the like. Seditions raiſed by ſuch men always tend to the ruin of popular governments; but when they happen under abſolute monarchies, the hurt intended is only to the perſon, who being removed, the promoters of them ſet up another; and he that is ſet up, ſubſiſting only by the ſtrength of thoſe who made him, is obliged to foment the vices that drew them to ſerve him; tho' another may perhaps make uſe of the ſame againſt him.

The conſequence of this is, that thoſe who uphold popular governments, look upon vice and indigence as miſchiefs that naturally increaſe each other, and equally tend to the ruin of the ſtate. When men are by vice brought into want, they are ready for miſchief: there is no villainy that men of profligate lives, loſt reputation, and deſperate fortunes, will not undertake. Popular equality is an enemy to theſe; and they who would preſerve it muſt preſerve integrity of manners, ſobriety, and an honeſt contentedneſs with what the law allows. On the other ſide, the abſolute monarch, who will have no other law than his own will, deſires to increaſe the number of thoſe who through lewdneſs and beggary may incline to depend upon him; tho' the ſame temper of mind, and condition of fortune, prepare them alſo for ſuch ſeditions as may bring him into danger; and the ſame corruption which led them to ſet him up, may invite them to ſell him to another that will give them better wages.

I do not by this conclude, that all monarchs are vitious men; but that whoever will ſet up an abſolute power, muſt do it by theſe means; and that if ſuch a power be already eſtabliſhed, and ſhould fall into the hands of a perſon, who by his virtue, and the gentleneſs of his nature, ſhould endeavour to render the yoke ſo eaſy, that a better diſciplined people might be contented to bear it; yet this method could laſt no longer than his life, and probably would be a means to ſhorten it; that which was at firſt eſtabliſhed by evil arts always returning to the ſame: that which was vitious in the principle, can never be long upheld by virtue; and we ſee, that the worſt of the Roman emperors were not in greater danger from ſuch good men as remained undeſtroyed, than the beſt from the corrupt party that would not be corrected, and ſought ſuch a maſter as would lay no reſtriction upon their vices. Thoſe few who eſcaped the rage of theſe villains, only gave a little breathing-time to the afflicted world, which by their children or ſucceſſors was again plunged into that extremity of miſery, from which they intended to deliver it. An extraordinary virtue was required to keep a prince in a way contrary to the principles of his

his own government; which being rarely found, and never continuing long in a family or ſucceſſion of men, the endeavours of the beſt became ineffectual, and either they themſelves periſhed in them, or after their death all things returned into the old polluted channel. SECT. 24.

Tho' the power of the Hebrew kings was not unlimited, yet it exceeded the rule ſet by God, and was ſufficient to increaſe the number of the worſt of men, and to give them opportunities of raiſing perpetual diſturbances. On the king's ſide there were flatterers and inſtruments of miſchief: on the other ſide there were indebted and diſcontented perſons. Notwithſtanding the juſtice of David's cauſe, the wiſdom, valour, and piety of his perſon, none would follow him, except a few of his own kindred (who knew what God had promiſed to him), and ſuch as were uneaſy in their worldly circumſtances. After the death of Saul there was a long and bloody war between Iſhboſheth and David. The former being killed, the ſlighteſt matters were ſufficient to put the whole nation into blood. Abſalom with a few fair words was able to raiſe all Iſrael againſt his father: Sheba the ſon of Bichri with as much eaſe raiſed a more dangerous tumult: David by wiſdom, valour, and the bleſſing of God, ſurmounted theſe difficulties, and prepared a peaceable reign for Solomon; but after his death they broke out into a flame that was never quenched till the nation was ſo diſperſed, that no man knew where to find his enemies. Solomon by his magnificence had reduced Iſrael to ſuch poverty, as inclined them to revolt upon the firſt offer of an opportunity by Jeroboam. From that time forward Iſrael was perpetually vexed with civil ſeditions and conſpiracies, or wars with their brethren of Judah. Nine kings with their families were deſtroyed by the firſt, and the latter brought ſuch ſlaughters upon the miſerable people as were never ſuffered by any who were not agitated with the like fury; and the courſe of theſe miſchiefs was never interrupted, till they had brought the nation into captivity, and the country to deſolation. Tho' God, according to his promiſe, did preſerve a light in the houſe of David; yet the tribe of Judah was not the more happy. Joaſh was ſlain by a private conſpiracy, and Amaziah (as is moſt probable) by public authority, for having fooliſhly brought a terrible ſlaughter upon Judah. Athaliah deſtroyed the king's race, and was killed herſelf by Jehoiada, who, not having learnt from our author to regard the power only, and not the ways by which it was obtained, cauſed her to be dragged out of the temple, and put to a well deſerved death. The whole ſtory is a tragedy: and if it be pretended this proceeded rather from the wrath of God againſt his people for their idolatry, than from ſuch cauſes as are applicable to other nations; I anſwer, that this idolatry was the production of the government they had ſet up, and moſt ſuitable to it; and chuſing rather to ſubject themſelves to the will of a man, than to the law of God, they deſervedly ſuffered the evils that naturally follow the worſt counſels. We know of none who, taking the like courſe, have not ſuffered the like miſeries. Notwithſtanding the admirable virtue and ſucceſs of Alexander, his reign was full of conſpiracies, and his knowledge of them prompted him

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to deſtroy Parmenio, Philotas, Clytus, Calliſthenes, Hermolaus, and many more of his beſt friends. If he eſcaped the ſword, he fell by poiſon. The murder of his wives, mother, and children, by the rage of his own ſoldiers; the fury of his captains employed in mutual ſlaughters, till they were conſumed; his paternal kingdom after many revolutions transferred to Caſſander his moſt mortal enemy; the utter extinction of his conquering army, and particularly the famous Argyraſpides, who, being grown faithleſs and ſeditious, after the death of Eumenes were ſent to periſh in unknown parts of the eaſt; abundantly teſtify the admirable ſtability, good order, peace, and quiet, that is enjoyed under abſolute monarchy. The next government of the like nature that appeared upon the ſtage of the world was that of Rome, introduced by wars that conſumed two thirds of the people; confirmed by proſcriptions, in which all that were eminent for nobility, riches, or virtue, periſhed. The peace they had under Auguſtus was like that which the devil allowed to the child in the Goſpel, whom he rent ſorely, and left as dead. The miſerable city was only caſt into a ſwoon; after long and violent vexations by ſeditions, tumults, and wars, it lay as dead; and finding no helper like to him who cured the child, it was delivered to new devils to be tormented, till it was utterly deſtroyed. Tiberius was appointed as a fit inſtrument for ſuch a purpoſe. It was thought, that thoſe who ſhould feel the effects of his pride, cruelty, and luſt, would look upon the death of Auguſtus as a loſs. He performed the work for which he was choſen; his reign was an uninterrupted ſeries of murders, ſubornation, perjuries, and poiſonings, intermixed with the moſt deteſtable impurities, the revolts of provinces, and mutinies of armies. The matter was not mended by his ſucceſſors: Caligula was killed by his own guards: Claudius poiſoned by his wife: Spain, Gaul, Germany, Pannonia, Mæſia, Syria, and Egypt, revolted at once from Nero; the people and ſenate followed the example of the provinces. This I think was, in our author's ſenſe, ſedition with a witneſs. Nero being dead by the hand of a ſlave, or his own to prevent that of the hangman, Galba entered the city with blood and ſlaughter; but when his own ſoldiers found he would not give the money for which they intended to ſell the empire, they killed him: and, to ſhew the ſtability of abſolute monarchy, it may be obſerved, that this was not done by the advice of the ſenate, or by a conſpiracy of great men; "Suſcepere duo manipulares "populi Romani imperium transferendum, & transſtulerunt." Two raſcals gave the empire to Otho, and the whole ſenate was like to be butchered for not being ſo ready to follow their venerable authority as they ought to have been, and hardly eſcaped the fury of their mad and drunken companions. As a farther teſtimony that theſe monarchies are not ſubject to ſedition and tumults, he had at once only two competitors againſt whom he was to defend the well acquired empire: his army was defeated at Breſcia; he killed himſelf; and his ſucceſſor Vitellius was ſoon after thrown into the common ſewer. The ſame method ſtill continued: Rome was filled with blood and aſhes; and to recite all the public miſchiefs would be to tranſcribe the hiſtory: for as Pyrrhus, being aſked who ſhould ſuc-

Mar. ix. 26.

C. Tacit. hiſt. l. i. c. 25.

ceed

ced him, anſwered, He who has the ſharpeſt ſword; that was the only law that governed in the following ages. Whoever could corrupt two or three legions, thought he had a good title to the empire; and unleſs he happened to be killed by treachery, or another tumult of his own ſoldiers, he ſeldom receded from it without a battle, wherein he that was moſt ſucceſsful, had no other ſecurity than what the preſent temper of the ſoldiers afforded him; and the miſerable provinces, having neither virtue nor force, were obliged ſlaviſhly to follow the fury or fortune of thoſe villains. In this ſtate did Rome dedicate to Conſtantine the triumphal arch, that had been prepared for Maxentius; and thoſe provinces which had ſet up Albinus and Niger ſubmitted to Septimius Severus. In the vaſt variety of accidents that in thoſe ages diſturbed the world, no emperor had a better title than what he purchaſed by money or violence; and enjoyed it no longer than thoſe helps continued, which of all things were the moſt uncertain. By this means moſt of the princes periſhed by the ſword, Italy was made deſolate, and Rome was ſeveral times ſackt and burnt. The miſtreſs of the world being made a ſlave, the provinces which had been acquired by the blood of her antient virtuous citizens, became part of an uſurper's patrimony, who without any regard to the public good, diſtributed them to his children according to their number, or his paſſion. Theſe either deſtroyed one another, or fell under the ſword of a third, who had the fortune of their father, the greateſt part moſt commonly falling to the ſhare of the worſt. If at any time the contrary happened, the government of the beſt was but a lucid interval. Well-wiſhing men grew more extremely to abhor the darkneſs that followed when they were gone. The beſt of them could do no more than ſuſpend miſchief for a while, but could not correct the corrupt principle of their government; ſome of them were deſtroyed as ſoon as they were thought to intend it: and others, who finiſhed their days in peace, left the empire to ſuch perſons of their relations as were moſt unlike to them. Domitian came in as brother to Titus. Commodus and Heliogabalus were recommended by the memory of thoſe virtues that had been found in Antoninus and Aurelius. Honorius and Arcadius, who by their baſeneſs brought utter ruin upon the weſtern and eaſtern empires, were the ſons of the brave Theodoſius. They who could keep their hands free from blood, and their hearts from malice, covetouſneſs, and pride, could not tranſmit their virtues to their ſucceſſors, nor correct the perverſeneſs that lay at the root and foundation of their government. The whole maſs of blood was vitiated: the body was but one vaſt ſore, which no hand but that of the Almighty could heal; and he, who from an abhorrence of iniquity had declared he would not hear the cries of his own people, when they had choſen the thing that was not good, would not ſhew mercy to ſtrangers, who had done the ſame thing. SECT. 24.

I have inſiſted upon the Hebrew, Macedonian, and Roman hiſtories, becauſe they are the moſt eminent, and beſt known to us: we are in the dark concerning the Babylonian, Aſſyrian, Chaldean, Bactrian, and Egyptian monarchies: we know little more of them than the ſcripture occaſionally relates concerning their barbarous cruelty, beſtial

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beſtial pride, and extravagant folly. Others have been like to them, and I know not where to find a peaceable monarchy unleſs it be in Peru, where the ynca Garcilaſſo de la Vega ſays, that a man and a woman, children of the ſun and the moon, appearing amongſt a barbarous people, living without any religion or law, eſtabliſhed a government amongſt them, which continued in much peace and juſtice for twelve generations: but this ſeeming to be as fabulous as their birth, we may paſs it over, and fix upon thoſe that are better known; of which there is not one that has not ſuffered more dangerous and miſchievous ſeditions, than all the popular governments that have been in the world: and the condition of thoſe kingdoms which are not abſolute, and yet give a preference to birth, without conſideration of merit or virtue, is not much better.

This is proved by the reaſons of thoſe ſeditions and tumults, as well as from the fact itſelf.

The reaſons do ariſe from the violence of the paſſions that incite men to them, and the intricacy of the queſtions concerning ſucceſſion.

Every man has paſſions; few know how to moderate, and no one can wholly extinguiſh them. As they are various in their nature, ſo they are governed by various objects; and men uſually follow that which is predominant in them, whether it proceed from anger or deſire, and whether it terminate in ambition, covetouſneſs, luſt, or any other more or leſs blameable appetite. Every manner of life furniſhes ſomething, that, in ſome meaſure, may foment theſe; but a crown comprehends all that can be grateful to the moſt violent and vitious. He who is covetous, has vaſt revenues, beſides what he may get by fraud and rapine, to ſatisfy his appetite. If he be given to ſenſuality, the variety of pleaſures, and the facility of accompliſhing whatever he deſires, tends farther to inflame that paſſion. Such as are ambitious, are incited by the greatneſs of their power to attempt great matters; and the moſt ſottiſh or lazy may diſcharge themſelves of cares, and hope that others will be eaſily hired to take the burden of buſineſs upon them, whilſt they lie at eaſe. They who naturally incline to pride and cruelty, are more violently tempted to uſurp dominion; and the wicked advices of flatterers, always concurring with their paſſions, incite them to exerciſe the power they have gotten with the utmoſt rigour, to ſatiate their own rage, and to ſecure themſelves againſt the effects of the public hatred, which they know they have deſerved. If there be, as our author ſays, no other rule than force and ſucceſs, and that he muſt be taken for the father of a people who is in poſſeſſion of a power over them; whoever has the one, may put the other to a trial. Nay, even thoſe who have regard to juſtice, will ſeldom want reaſons to perſuade them that it is on their ſide. Something may be amiſs in the ſtate; injuries may be done to themſelves and their friends. Such honours may be denied as they think they deſerve; or others of leſs merit, as they ſuppoſe, may be preferred before them. Men do ſo rarely make a right eſtimate of their own merits, that thoſe who mean

well may be often deceived: and if nothing but ſucceſs be required to make a monarch, they may think it juſt to attempt whatever they can hope to accompliſh. This was the caſe of Julius Cæſar; he thought all things lawful, when the conſulate, which he ſuppoſed he had deſerved, was denied. SECT. 24.

" Viribus utendum eſt quas fecimus: arma tenenti
" Omnia dat, qui juſta negat." Lucan.

Theſe enterpriſes ſeem to belong to men of great ſpirits; but there are none ſo baſe not to be capable of undertaking, and (as things may ſtand) of bringing them to perfection. Hiſtory repreſents no man under a more contemptible character of ſottiſh lazineſs, cowardice, and drunkenneſs, than Vitellius; no one more impure and ſordid than Galba: Otho was advanced for being in his manners like to Nero: Veſpaſian was ſcorned for his avarice, till the power fell into ſuch hands as made the world believe none could be unworthy of the empire; and in the following ages the worſt men by the worſt means moſt frequently obtained it.

Theſe wounds are not cured by ſaying, that the law of God and nature prevents this miſchief, by annexing the ſucceſſion of crowns to proximity of blood; for mankind had not been continually afflicted with them if there had been ſuch a law, or that they could have been prevented by it: and tho' there were ſuch a law, yet more queſtions would ariſe about that proximity, than any wiſe man would dare to determine. The law can be of no effect, unleſs there be a power to decide the conteſts ariſing upon it: but the fundamental maxim of the great monarchies is, that there can be no " interregnum:" the heir of the crown is in poſſeſſion, as ſoon as he who did enjoy it is dead. " Le mort," as the French ſay, " ſaiſit le vif:" there can be therefore no ſuch law, or it ſerves for nothing. If there be judges to interpret the law, no man is a king till judgment be given in his favour; and he is not king by his own title, but by the ſentence given by them. If there be none, the law is merely imaginary, and every man may, in his own caſe, make it what he pleaſes. He who has a crown in his view, and arms in his hand, wants nothing but ſucceſs to make him a king; and if he proſper, all men are obliged to obey him.

It is a folly to ſay the matter is clear, and needs no deciſion; for every man knows, that no law concerning private inheritances can be ſo exactly drawn, but many controverſies will ariſe upon it, that muſt be decided by a power to which both parties are ſubject: and the diſputes concerning kingdoms are ſo much the more difficult, becauſe this law is no-where to be found; and the more dangerous, becauſe the competitors are for the moſt part more powerful.

Again, this law muſt either be general to all mankind, or particular to each nation. If particular, a matter of ſuch importance requires good proof, when, where, how, and by whom it was given to every one. But the ſcriptures teſtifying to the contrary, that God gave laws to the Jews only, and that no ſuch thing as hereditary monarchy, according to proximity of blood, was preſcribed by them, we may ſafely ſay, that God did never give any ſuch law

to every particular, nor to any nation. If he did not give it to any one, he did not give it to all, for every one is comprehended in all; and if no one has it, it is impoſſible that all can have it; or that it ſhould be obligatory to all, when no man knows or can tell, when, where, and by what hand it was given, nor what is the ſenſe of it: all which is evident by the various laws and cuſtoms of nations in the diſpoſal of hereditary ſucceſſions: and no one of them, that we know, has to this day been able to ſhew, that the method followed by them, is more according to nature than that of others.

If our author pretend to be God's interpreter, and to give the ſolution of theſe doubts, I may aſk which of the five following ways are appointed by God, and then we may examine caſes reſulting from them.

1. In France, Turky, and other places, the ſucceſſion comes to the next male, in the ſtrait eldeſt line, according to which the ſon is preferred before the brother of him who laſt enjoyed the crown (as the preſent king of France before his uncle the duke of Orleans) and the ſon of the eldeſt before the brothers of the eldeſt; as in the caſe of Richard the Second of England, who was advanced preferably to all the brothers of the Black prince his father.

2. Others keep to the males of the reigning family, yet have more regard to the eldeſt man than to the eldeſt line: and repreſentation taking no place among them, the eldeſt man is thought to be neareſt to the firſt king; and a ſecond ſon of the perſon that laſt reigned, to be nearer to him than his grandchild by the eldeſt ſon: according to which rule, any one of the ſons of Edward the Third, remaining after his death, ſhould have been preferred before Richard the Second, who was his grandchild.

3. In the two caſes before-mentioned, no manner of regard is had to females, who being thought naturally uncapable of commanding men, or performing the functions of a magiſtrate, are, together with their deſcendents, utterly excluded from the ſupreme as well as from the inferior magiſtracies; and in Turky, France, and other great kingdoms, have no pretence to any title: but in ſome places, and particularly in England, the advantages of proximity belong to them as well as to males; by which means our crown has been tranſported to ſeveral families and nations.

4. As in ſome places they are utterly rejected, and in others received ſimply without any condition; ſo thoſe are not wanting, where that of not marrying out of the country, or without the conſent of the eſtates, is impoſed, of which Sweden is an example.

5. In ſome places proximity of blood is only regarded, whether the iſſue be legitimate or illegitimate; in others baſtards are wholly excluded.

By this variety of judgments, made by ſeveral nations, upon this point, it may appear, that tho' it were agreed by all, that the next in blood ought to ſucceed, yet ſuch conteſts would ariſe upon the interpretation and application of the general rule, as muſt neceſſarily be a perpetual ſpring of irreconcileable and mortal quarrels.

If

If any man ſay, the rule obſerved in England is that which God gave to mankind; I leave him firſt to diſpute that point with the kings of France, and many others, who can have no right to the crowns they wear, if it be admitted; and, in the next place, to prove, that our anceſtors had a more immediate communication with God, and a more certain knowledge of his will than others, who for any thing we know, may be of authority equal to them: but in the mean time we may rationally conclude, that if there be ſuch a rule, we have had no king in England for the ſpace of almoſt a thouſand years, having not had one who did not come to the crown by a moſt manifeſt violation of it; as appears by the forecited examples of William the Firſt and Second; Henry the Firſt, Henry the Second and his children; John, Edward the Third, Henry the Fourth, Edward the Fourth and his children; Henry the Seventh, and all that claim under any of them. And if poſſeſſion or ſucceſs can give a right, it will I think follow, that Jack Straw, Wat Tyler, Perkin Warbeck, or any other raſcal, might have had it if he had been as happy as bold in his enterprize. This is no leſs than to expoſe crowns to the firſt that can ſeize them, to deſtroy all law and rule, and to render right a ſlave to fortune. If this be ſo, a late earl of Pembroke, whoſe underſtanding was not thought great, judged rightly when he ſaid his grandfather was a wiſe man tho' he could neither write nor read, inaſmuch as he reſolved to follow the crown, tho' it were upon a coal-ſtaff. But if this be ſufficient to make a wiſe man, it is pity the ſecret was no ſooner diſcovered, ſince many, who for want of it lived and died in all the infamy that juſtly accompanies knavery, cowardice, and folly, might have gained the reputation of the moſt excellent men in their ſeveral ages. The bloody factions, with which all nations ſubject to this ſort of monarchy have been perpetually vexed, might have been prevented by throwing up croſs or pile, or by battle between the competitors body to body, as was done by Corbis and Orſua, Cleoreſtes and Polynices, Ironſide and Canutus; it being moſt unreaſonable, or rather impiouſly abſurd, for any to venture their lives and fortunes, when their conſciences are not concerned in the conteſt, and that they are to gain nothing by the victory. SECT. 24.

If reaſon teaches, that till this expeditious way of ending controverſies be received, the ambition of men will be apt to imbroil nations in their quarrels, and others judging variouſly of thoſe matters, which can be reduced to no certain rule, will think themſelves in conſcience obliged to follow the party that ſeems to them to be moſt juſt; experience manifeſts the ſame, and that ambition has produced more violent miſchiefs than all the other deſires and paſſions that have ever poſſeſſed the hearts of men. That this may appear, it will not be amiſs to divide them into ſuch as proceed from him who is in poſſeſſion of the power, through jealouſy of ſtate, as they call it, to prevent the enterprizes of thoſe who would diſpoſſeſs him, and ſuch as ariſe between competitors contending for it.

Tarquin's counſel concerning the poppies, and Periander's heads of corn, are of the firſt ſort. The moſt eminent are always moſt feared

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feared as the readieſt to undertake, and moſt able to accompliſh, great deſigns. This eminence proceeds from birth, riches, virtue, or reputation, and is ſometimes wrought up to the greateſt height by a conjunction of all theſe. But I know not where to find an example of ſuch a man, who could long ſubſiſt under abſolute monarchy. If he be of high birth, he muſt, like Brutus, conceal his virtue, and gain no reputation, or reſolve to periſh, if he do not prevent his own death by that of the tyrant: all other ways are ineffectual; the ſuſpicions, fears, and hatred, thereupon ariſing, are not to be removed: perſonal reſpects are forgotten, and ſuch ſervices as cannot be ſufficiently valued, muſt be blotted out by the death of thoſe who did them. Various ways may be taken, and pretences uſed, according to the temper of times and nations; but the thing muſt be done; and whether it be coloured by a trick of law, or performed by a mute with a bowſtring, imports little. Henry the Fourth was made king by the earl of Northumberland, and his brave ſon Hotſpur; Edward the Fourth by the valiant earl of Warwick; Henry the Seventh by Stanley; but neither of them could think himſelf ſafe, till his benefactor was dead. No continued fidelity, no teſtimonies of modeſty and humility, can prevent this. The modeſty of Germanicus in rejecting the honours that were offered to him, and his induſtry in quieting the mutinied legions, accelerated his ruin: when it was evident he might be emperor if he pleaſed, he muſt be ſo, or die: there was no middle ſtation between the throne and the grave. It is probable, that Caligula, Nero, and other beaſts like to them, might hate virtue for the good which is in it; but I cannot think, that either they, their predeceſſors or ſucceſſors, would have put themſelves upon the deſperate deſign of extirpating it, if they had not found it to be inconſiſtent with their government; and that being once concluded, they ſpared none of their neareſt relations. Artaxerxes killed his ſon Darius: Herod murdered the beſt of his wives, and all his ſons except the worſt. Tiberius deſtroyed Agrippa Poſthumus, and Germanicus, with his wife and two ſons. How highly ſoever Conſtantine the Great be commended, he was polluted with the blood of his father-in-law, wife, and ſon. Philip the Second of Spain did in the like manner deliver himſelf from his fears of Don Carlos; and it is not doubted, that Philip the Fourth, for the ſame reaſons, diſpatched his brother Don Carlos, and his ſon Balthaſar. The like caſes were ſo common in England, that all the Plantagenets, and the noble families allied to them being extinguiſhed, our anceſtors were ſent to ſeek a king in one of the meaneſt in Wales.

This method being known, thoſe who are unwilling to die ſo tamely, endeavour to find out ways of defending themſelves; and there being no other than the death of the perſon who is in the throne, they uſually ſeek to compaſs it by ſecret conſpiracy, or open violence; and the number of princes that have been deſtroyed, and countries diſturbed by thoſe who through fear have been driven to extremities, is not much leſs than of thoſe who have ſuffered the like from men following the impulſe of their own ambition.

The diſorders ariſing from conteſts between ſeveral competitors, before any one could be ſettled in the poſſeſſion of kingdoms, have been

been no leſs frequent and bloody than thoſe above-mention'd, and the miſeries ſuffer'd by them, together with the ruin brought upon the empires of Macedon and Rome, may be ſufficient to prove it; however, to make the matter more clear, I ſhall alledge others. But becauſe it may be preſumption in me to think I know all the hiſtories of the world, or tedious to relate all thoſe I know, I ſhall content myſelf with ſome of the moſt eminent and remarkable: and if it appear, that they have all ſuffer'd the ſame miſchiefs, we may believe they proceed not from accidents, but from the power of a permanent cauſe, that always produces the ſame, or the like effects. SECT. 24.

To begin with France. The ſucceſſion not being well ſettled in the time of Meroveus, who diſpoſſeſs'd the grandchildren of Pharamond, he was no ſooner dead than Gillon ſet up himſelf, and with much ſlaughter drove Chilperic his ſon out of the kingdom; and he after a little time returning with like fury, is ſaid to have ſeen a viſion, firſt of lions and leopards, then of bears and wolves, and laſtly of dogs and cats, all tearing one another to pieces. This has been always accounted by the French to be a repreſentation of the nature and fortune of the three races, that were to command them, and has been too much verified by experience. Clovis their firſt chriſtian and moſt renowned king, having by good means or evil exceedingly enlarged his territories, but chiefly by the murders of Alaric and Ragnacaire, with his children, and ſuborning Sigiſmond of Metz to kill his father Sigebert, left his kingdom to be torn in pieces by the rage of his four ſons, each of them endeavouring to make himſelf maſter of the whole; and when, according to the uſual fate of ſuch conteſts, ſucceſs had crown'd Clothaire, who was the worſt of them all, by the ſlaughter of his brothers and nephews, with all the flower of the French and Gauliſh nobility, the advantages of his fortune only reſulted to his own perſon. For after his death the miſerable nations ſuffer'd as much from the madneſs of his ſons, as they had done by himſelf and his brothers. They had learnt from their predeceſſors not to be ſlow in doing miſchief; but were farther incited by the rage of two infamous ſtrumpets, Fredegonde and Brunehaud, which is a ſort of vermin, that I am inclined to think, has nôt uſually govern'd ſenates, or popular aſſemblies. Chilperic the Second, who by the ſlaughter of many perſons of the royal blood, with infinite numbers of the nobility and people, came to be maſter of ſo much of the country, as procured him the name of king of France, killed his eldeſt ſon on ſuſpicion, that he was excited againſt him by Brunehaud; and his ſecond, leſt he ſhould revenge the death of his brother: he married Fredegonde, and was ſoon after kill'd by her adulterer Landry. The kingdom continued in the ſame miſery through the rage of the ſurviving princes, and found no relief, tho' moſt of them fell by the ſword; and that Brunehaud, who had been a principal cauſe of thoſe tragedies, was tied to the tails of four wild horſes, and ſuffer'd a death as foul as her life. Theſe were lions and leopards. They involved the kingdom in deſperate troubles; but, being men of valour and induſtry, they kept up in ſome meaſure the reputation and power of the nation; and he

Hiſt. de France en la vie de Chilperic I.

Mezeray, & de Serres.

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C. Tacit.

palace, than they had been before by the rage of thoſe princes who had conteſted for the crown. The iſſue alſo was the ſame: after many revolutions, Charles Martel gained the power of the kingdom, which he had ſo bravely defended againſt the Saracens; and, having tranſmitted it to his ſon Pepin, the general aſſembly of eſtates, with the approbation of mankind, conferred the title alſo upon him. This gave the nation eaſe for the preſent; but the deep-rooted evil could not be ſo cured; and the kingdom, that by the wiſdom, valour, and reputation of Pepin, had been preſerved from civil troubles during his life, fell as deeply as ever into them ſo ſoon as he was dead. His ſons, Carloman and Charles, divided the dominions; but in a little time each of them would have all. Carloman filled the kingdom with tumult; raiſed the Lombards, and marched with a great army againſt his brother, till his courſe was interrupted by death, cauſed, as is ſuppoſed, by ſuch helps as princes liberally afford to their aſpiring relations. Charles deprived his two ſons of their inheritance, put them in priſon, and we hear no more of them. His third brother Griffon was not more quiet, nor more ſucceſsful; and there could be no peace in Gaſcony, Italy, or Germany, till he was killed. But all the advantages which Charles, by an extraordinary virtue and fortune, had purchaſed for his country, ended with his life. He left his ſon Lewis the Gentle in poſſeſſion of the empire, and kingdom of France, and his grandſon Bernard king of Italy: but thoſe two could not agree, and Bernard, falling into the hands of Lewis, was deprived of his eyes, and ſome time after killed. This was not enough to preſerve the peace: Lothair, Lewis, and Pepin, all three ſons to Lewis, rebelled againſt him; called a council at Lions, depoſed him, and divided the empire amongſt themſelves. After five years he eſcaped from the monaſtery where he had been kept, renewed the war, and was again taken priſoner by Lothair. When he was dead, the war broke out more fiercely than ever between his children: Lothair the emperor aſſaulted Lewis king of Bavaria, and Charles king of Rhetia; was defeated by them, and confined to a monaſtery, where he died. New quarrels aroſe between the two brothers, upon the diviſions of the countries taken from him, and Lorrain only was left to his ſon. Lewis died ſoon after, and Charles, getting poſſeſſion of the empire and kingdom, ended an inglorious reign in an unproſperous attempt to deprive Hermingrade, daughter to his brother Lewis, of the kingdom of Arles, and other places left to her by her father. Lewis his ſon, called the Stutterer, reigned two years in much trouble; and his only legitimate ſon, Charles the Simple, came not to the crown till after the death of his two baſtards Lewis and Carloman, Charles le Gros, and Eudes duke of Anjou. Charles le Gros was depoſed from the empire and kingdom, ſtripped of his goods, and left to periſh through poverty in an obſcure village. Charles the Simple, and the nations under him, thrived no better: Robert duke of Anjou raiſed war againſt him, and was crowned at Rheims; but was himſelf ſlain ſoon after in a bloody battle near Soiſſons. His ſon-in-law Hebert, earl of Vermandois, gathered up the remains of his ſcattered party, got Charles into his power, and called a general aſſembly of eſtates, who depoſed him,

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him, and gave the crown to Raoul duke of Burgundy; tho' he was no otherwiſe related to the royal blood than by his mother, which in France is nothing at all. He being dead, Lewis ſon to the depoſed Charles was made king; but his reign was as inglorious to him, as miſerable to his ſubjects. This is the peace which the French enjoyed for the ſpace of five or ſix ages under their monarchy; and it is hard to determine whether they ſuffered moſt by the violence of thoſe who poſſeſſed, or the ambition of others who aſpired to the crown; and whether the fury of active, or the baſeneſs of ſlothful princes was moſt pernicious to them: but upon the whole matter, through the defects of thoſe of the latter ſort, they loſt all that they had gained by ſweat and blood under the conduct of the former. Henry and Otho of Saxony, by a virtue like that of Charlemagne, deprived them of the empire, and ſettled it in Germany, leaving France only to Lewis ſurnamed Outremer, and his ſon Lothair. Theſe ſeemed to be equally compoſed of treachery, cruelty, ambition, and baſeneſs: they were always mutinous, and always beaten: their frantic paſſions put them always upon unjuſt deſigns, and were ſuch plagues to their ſubjects and neighbours, that they became equally deteſted and deſpiſed. Theſe things extinguiſhed the veneration due to the memory of Pepin and Charles; and obliged the whole nation rather to ſeek relief from a ſtranger, than to be ruined by their worthleſs deſcendents. They had tried all ways that were in their power; depoſed four crowned kings within the ſpace of an hundred and fifty years; crowned five who had no other title than the people conferred upon them; and reſtored the deſcendents of thoſe they had rejected: but all was in vain; their vices were incorrigible, the miſchiefs produced by them intolerable; they never ceaſed from murdering one another in battle, or by treachery, and bringing the nation into civil wars upon their wicked or fooliſh quarrels, till the whole race was rejected, and the crown placed upon the head of Hugh Capet. Theſe miſchiefs raged not in the ſame extremity under him, and his deſcendents; but the abatement proceeded from a cauſe no-way advantageous to abſolute monarchy. The French were by their calamities taught more ſtrictly to limit the regal power; and by turning the dukedoms and earldoms into patrimonies, which had been offices, gave an authority to the chief of the nobility, by which that of kings was curbed; and tho' by this means the commonalty was expoſed to ſome preſſures, yet they were ſmall, in compariſon of what they had ſuffered in former times. When many great men had eſtates of their own, that did not depend upon the will of kings, they grew to love their country; and tho' they chearfully ſerved the crown in all caſes of public concernment, they were not eaſily engaged in the perſonal quarrels of thoſe who poſſeſſed it, or had a mind to gain it. To preſerve themſelves in this condition, they were obliged to uſe their vaſſals gently; and this continuing in ſome meaſure till within the laſt fifty years, the monarchy was leſs tumultuous, than when the king's will had been leſs reſtrained. Nevertheleſs, they had not much reaſon to boaſt; there was a root ſtill remaining, that from time to time produced poiſonous fruit: civil wars were frequent among them, tho' not carried

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on with ſuch deſperate madneſs as formerly; and many of them upon the account of diſputes between competitors for the crown. All the wars with England, ſince Edward the Second married Iſabella daughter, and, as he pretended, heir of Philip le Bel, were of this nature. The defeats of Crecy, Poitiers, and Agincourt, with the ſlaughters and devaſtations ſuffered from Edward the Third, the Black prince, and Henry the Fifth, were merely upon conteſts for the crown, and for want of an interpreter of the law of ſucceſſion, who might determine the queſtion between the heir male, and the heir general. The factions of Orleans and Burgundy, Orleans and Armignac, proceeded from the ſame ſpring; and the murders that ſeem to have been the immediate cauſes of thoſe quarrels, were only the effects of the hatred growing from their competition. The more odious, tho' leſs bloody conteſts between Lewis the Eleventh, and his father Charles the Seventh, with the jealouſy of the former againſt his ſon Charles the Eighth, aroſe from the ſame principle. Charles of Bourbon prepared to fill France with fire and blood upon the like quarrel, when his deſigns were overthrown by his death in the aſſault of Rome. If the dukes of Guiſe had been more fortunate, they had ſoon turned the cauſe of religion into a claim to the crown, and repaired the injury done, as they pretended, to Pepin's race, by deſtroying that of Capet: and Henry the Third, thinking to prevent this by the ſlaughter of Henry le Balafré, and his brother the cardinal de Guiſe, brought ruin upon himſelf, and caſt the kingdom into a moſt horrid confuſion. Our own age furniſhes us with more than one attempt of the ſame kind attended with the like ſucceſs. The duke of Orleans was ſeveral times in arms againſt Lewis the Thirteenth his brother; the queen-mother drew the Spaniards to favour him; Montmorency periſhed in his quarrel; Fontrailles revived it by a treaty with Spain, which ſtruck at the king's head as well as the cardinal's, and was ſuppreſſed by the death of Cinq Mars and de Thou. Thoſe who underſtand the affairs of that kingdom, make no doubt that the count de Soiſſons would have ſet up for himſelf, and been followed by the beſt part of France, if he had not been killed in the purſuit of his victory at the battle of Sedan. Since that time the kingdom has ſuffered ſuch diſturbances as ſhew, that more was intended than the removal of Mazarin: and the Marechal de Turenne was often told, that the check he gave to the prince of Conde at Gien, after he had defeated Hocquincourt, had preſerved the crown upon the king's head. And to teſtify the ſtability, good order, and domeſtic peace, that accompanies abſolute monarchy, we have in our own days ſeen the houſe of Bourbon often divided within itſelf; the duke of Orleans, the count de Soiſſons, the princes of Conde and Conti, in war againſt the king; the dukes of Angouleſme, Vendome, Longueville, the count de Moret, and other baſtards of the royal family following their example; the houſes of Guiſe, d'Elbeuf, Bouillon, Nemours, Rochefocault, and almoſt all the moſt eminent in France, with the parliaments of Paris, Bourdeaux, and ſome others, joining with them. I might alledge many more examples, to ſhew, that this monarchy, as well as all others, has from the firſt eſtabliſhment been full of blood and ſlaughter, through the violence of thoſe who poſ-

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ſeſſed the crown, and the ambition of ſuch as aſpired to it; and that the end of one civil war has been the beginning of another: but I preſume, upon the whole, theſe will be thought ſufficient to prove, that it never enjoyed any permanent domeſtic quiet.

The kingdoms of Spain have been no leſs diſturbed by the ſame means; but eſpecially that of Caſtile, where the kings had more power than in other places. To cite all the examples, were to tranſcribe their hiſtories; but whoever has leiſure to examine them will find, that after many troubles, Alphonſo the Second, notwithſtanding his glorious ſurname of Wiſe, was depoſed by means of his ambitious ſon: don Alonſo, ſurnamed el Deſheredado, ſupplanted by his uncle don Sancho el Bravo: Peter the Cruel caſt from the throne, and killed by his baſtard brother the conde de Traſtamara. From the time of the above-named Alphonſo to that of Ferdinand and Iſabella, containing about two hundred years, ſo few of them paſſed without civil wars, that I hardly remember two together that were free from them: and whoſoever pretends, that of late years that monarchy has been more quiet, muſt, if he be ingenuous, confeſs their peace is rather to be imputed to the dexterity of removing ſuch perſons as have been moſt likely to raiſe diſturbances (of which number were don John of Auſtria, don Carlos ſon to Philip the Second, another of the ſame name ſon to Philip the Third, and don Balthazar, ſon to Philip the Fourth) than to the rectitude of their conſtitutions.

He that is not convinced of theſe truths by what has been ſaid, may come nearer home, and ſee what miſchiefs were brought upon Scotland by the conteſts between Baliol and Bruce, with their conſequences, till the crown came to the Stuart family; the quiet reigns, and happy deaths, of the five James's, together with the admirable ſtability and peace of the government under queen Mary, and the perfect union in which ſhe lived with her huſband, ſon and people, as well as the happineſs of the nation whilſt it laſted.

Buchan. de reb. Scot. Drummond. Melvil.

But the miſeries of England, upon the like occaſions, ſurpaſs all. William the Norman was no ſooner dead, but the nation was rent in pieces by his ſon Robert, conteſting with his younger ſons William and Henry for the crown. They being all dead, and their ſons, the like happened between Stephen and Maud: Henry the Second was made king to terminate all diſputes, but it proved a fruitleſs expedient. Such as were more ſcandalous, and not leſs dangerous, did ſoon ariſe between him and his ſons; who, beſides the evils brought upon the nation, vexed him to death by their rebellion. The reigns of John and Henry the Third were yet more tempeſtuous. Edward the Second's lewd, fooliſh, infamous, and deteſtable government, ended in his depoſition and death, to which he was brought by his wife and ſon. Edward the Third employed his own and his ſubjects valour againſt the French and Scots; but whilſt the foundations were out of order, the nation could never receive any advantage by their victories: all was calculated for the glory, and turned to the advantage of one man. He being dead, all that the Engliſh held in Scotland, and in France, was loſt through the baſeneſs of his ſucceſſor, with

with more blood than it had been gained; and the civil wars raiſed by his wickedneſs and madneſs ended as thoſe of Edward the Second had done. The peace of Henry the Fourth's reign was interrupted by dangerous civil wars; and the victory obtained at Shrewſbury had not perhaps ſecured him in the throne, if his death had not prevented new troubles. Henry the Fifth acquired ſuch reputation by his virtue and victories, that none dared to invade the crown during his life; but immediately after his death the ſtorms prepared againſt his family broke out with the utmoſt violence. His ſon's weakneſs encouraged Richard duke of York to ſet up a new title, which produced ſuch miſchiefs as hardly any people has ſuffered, unleſs upon the like occaſion: for beſides the ſlaughter of many thouſands of the people, and eſpecially of thoſe who had been accuſtomed to arms, the devaſtation of the beſt parts of the kingdom, and the loſs of all that our kings had inherited in France, or gained by the blood of their ſubjects, fourſcore princes of the blood, as Philip de Commines calls them, died in battle, or under the hand of the hangman. Many of the moſt noble families were extinguiſhed; others loſt their moſt eminent men. Three kings, and two preſumptive heirs of the crown, were murdered, and the nation brought to that ſhameful exigence, to ſet up a young man to reign over them, who had no better cover for his ſordid extraction than a Welſh pedigree, that might ſhew how a tailor was deſcended from prince Arthur, Cadwallader, and Brutus. But the wounds of the nation were not to be healed with ſuch a plaiſter. He could not rely upon a title made up of ſuch ſtuff, and patched with a marriage to a princeſs of a very queſtionable birth. His own meanneſs inclined him to hate the nobility; and thinking it to be as eaſy for them to take the crown from him, as to give it to him, he induſtriouſly applied himſelf to glean up the remainders of the houſe of York, from whence a competitor might ariſe, and by all means to cruſh thoſe who were moſt able to oppoſe him. This exceedingly weakened the nobility, who held the balance between him and the commons, and was the firſt ſtep towards the diſſolution of our antient government: but he was ſo far from ſettling the kingdom in peace, that ſuch raſcals as Perkin Warbeck and Simnel were able to diſturb it. The reign of Henry the Eighth was turbulent and bloody; that of Mary furious, and ſuch as had brought us into ſubjection to the moſt powerful, proud, and cruel nation at that time in the world, if God had not wonderfully protected us. Nay, Edward the Sixth, and queen Elizabeth, notwithſtanding the natural excellency of their diſpoſitions, and their knowledge of the truth in matters of religion, were forced by that which men call "jealouſy of ſtate," to foul their hands ſo often with illuſtrious blood, that if their reigns deſerve to be accounted amongſt the moſt gentle of monarchies, they were more heavy than the government of any commonwealth in time of peace; and yet their lives were never ſecure againſt ſuch as conſpired againſt them upon the account of title.

SECT. 24.

Having in ſome meaſure ſhewed what miſeries have been uſually, if not perpetually brought upon nations ſubject to monarchies, by the violence of ſome princes, and the baſeneſs, folly, and cowardice, of others,

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others, together with what they have ſuffered in conteſts for the ſeveral crowns, whilſt men divided into divers factions ſtrive with as much vehemency to advance the perſon they favour, as if they or their country were intereſted in the quarrel, and fight as fiercely for a maſter as they might reaſonably do to have none, I am not able to determine which of the two evils is the moſt mortal. It is evident the vices of princes reſult to the damage of the people; but whether pride and cruelty, or ſtupidity and ſloth, be the worſt, I cannot tell. All monarchies are ſubject to be afflicted with civil wars; but whether the moſt frequent and bloody do ariſe from the quarrels of divers competitors for crowns, before any one gain the poſſeſſion of them, or afterwards, through the fears of him that would keep what he has gained, or the rage of thoſe who would wreſt it from him, is not ſo eaſily decided. But commonwealths are leſs troubled with thoſe diſtempers. Women, children, or ſuch as are notoriouſly fooliſh or mad, are never advanced to the ſupreme power. Whilſt the laws, and that diſcipline which nouriſhes virtue, is in force, men of wiſdom and valour are never wanting; and every man deſires to give teſtimony of his virtue, when he knows it will be rewarded with honour and power. If unworthy perſons creep into magiſtracies, or are by miſtake any way preferred, their vices, for the moſt part, turn to their own hurt; and the ſtate cannot eaſily receive any great damage by the incapacity of one who is not to continue in office above a year; and is uſually encompaſſed with thoſe who having borne, or are aſpiring to the ſame, are by their virtue able to ſupply his defects; cannot hope for a reward from one unable to corrupt them, and are ſure of the favour of the ſenate and people to ſupport them in the defence of the public intereſt. As long as this good order continues, private quarrels are ſuppreſſed by the authority of the magiſtrate, or prove to be of little effect. Such as ariſe between the nobles and commons frequently produce good laws for the maintenance of liberty, as they did in Rome for above three hundred years after the expulſion of Tarquin; and almoſt ever terminate with little or no blood. Sometimes the errors of one or both parties are diſcovered by the diſcourſe of a wiſe and good man; and thoſe who have moſt violently oppoſed one another become the beſt friends, every one joining to remove the evil that cauſes the diviſion. When the ſenate and people of Rome ſeemed to be moſt furiouſly incenſed againſt each other, the creation of tribunes, communication of honours and marriages between the patrician and plebeian families, or the mitigation of uſury, compoſed all; and theſe were not only harmleſs things, but ſuch as gave opportunities of correcting the defects that had been in the firſt conſtitution of the government, without which they could never have attained to the greatneſs, glory, and happineſs, they afterwards enjoyed. Such as had ſeen that people meeting in tumult, running through the city, crying out againſt the kings, conſuls, ſenate, or decemviri, might have thought they would have filled all with blood and ſlaughter; but no ſuch thing happened. They deſired no more than to take away the kingdom which Tarquin had wickedly uſurped; and never went about ſo much as to puniſh one miniſter of the miſchiefs he had done, or to take away his goods, till upon

upon pretence of treating, his embaſſadors by a new treachery had caſt the city into greater danger than ever. Tho' the decemviri had by the like villainies equally provoked the people, they were uſed with the like gentleneſs: Appius Claudius and Oppius having by voluntary death ſubſtracted themſelves from public puniſhment, their collegues were only baniſhed, and the magiſtracies of the city reduced to the former order without the effuſion of more blood. They who contended for their juſt rights, were ſatisfied with the recovery of them; whereas ſuch as follow the impulſe of an unruly ambition never think themſelves ſafe, till they have deſtroyed all that ſeem able to diſturb them, and ſatiated their rage with the blood of their adverſaries. This makes as well as ſhews the difference between the tumults of Rome, or the ſeceſſion of the common people to mount Aventine, and the battles of Towton, Teuxbury, Eveſhal, Lewes, Hexham, Barnet, St. Albans, and Boſworth. It is in vain to ſay theſe ought rather to be compared to thoſe of Pharſalia, Actium, or Philippi; for when the laws of a commonwealth are aboliſhed, the name alſo ceaſes. Whatever is done by force or fraud to ſet up the intereſts and luſts of one man in oppoſition to the laws of his country, is purely and abſolutely monarchical. Whatſoever paſſed between Marius, Sylla, Cinna, Catiline, Cæſar, Pompey, Craſſus, Auguſtus, Antonius, and Lepidus, is to be imputed to the conteſts that ariſe between competitors for monarchy, as well as thoſe that in the next age happened between Galba, Otho, Vitellius, and Veſpaſian: or, which is worſe, whereas thoſe in commonwealths fight for themſelves when there is occaſion, and, if they ſucceed, enjoy the fruits of their victory, ſo as even thoſe who remain of the vanquiſhed party, partake of the liberty thereby eſtabliſhed, or the good laws thereupon made; ſuch as followed the enſigns of theſe men, who ſought to ſet up themſelves, did, rather like beaſts than men, hazard and ſuffer many unſpeakable evils to purchaſe miſery to themſelves and their poſterity, and to make him their maſter, who, increaſing in pride, avarice, and cruelty, was to be thrown down again with as much blood as he had been ſet up.

SECT. 24.

T. Liv. l. iii.

Theſe things, if I miſtake not, being in the laſt degree evident, I may leave to our author all the advantages he can gain by his rhetorical deſcription of the tumults of Rome, "when blood was in the market-"place ſuckt up with ſponges, and the jakes ſtuffed with carcaſes;" to which he may add the crimes of Sylla's life, and the miſeries of his death: but withal I deſire to know, what number of ſponges were ſufficient to ſuck up the blood of five hundred thouſand men ſlain in one day, when the houſe of David and Jeroboam contended for the crown of Iſrael, or of four hundred thouſand who fell in one battle, between Joaſh and Amaziah on the ſame occaſion; what jakes were capacious enough to contain the carcaſes of thoſe that periſhed in the quarrels between the ſucceſſors of Alexander; the ſeveral competitors for the Roman empire; or thoſe which have happened in France, Spain, England, and other places upon the like occaſions? If Sylla for ſome time acted as an abſolute monarch, it is no wonder that he died like one, or that God puniſhed him as Herod, Philip the Second of Spain, and ſome others, becauſe the hand of his fellow-citizens had unjuſtly ſpared him. If, when he was become deteſtable

CHAP. II. to God and man, he became alſo miſerable, his example ought to deter others from the crimes, that are avenged by a power which none can eſcape, and to encourage thoſe who defend, or endeavour to recover, their violated liberties, to act vigorouſly in a cauſe, that God does evidently patronize.

SECT. XXV.

Courts are more ſubject to venality and corruption than popular governments.

THOUGH court-flatterers impute many evils to popular governments they no-way deſerve, I could not think any ſo impudent as to lay corruption and venality to their charge, till I found it in our author. They might in my opinion have taken thoſe faults upon themſelves, ſince they certainly abound moſt where bawds, whores, buffoons, players, ſlaves, and other baſe people, who are naturally mercenary, are moſt prevalent. And whoſoever would know whether this does more frequently befal commonwealths than monarchies, eſpecially if they are abſolute, need only to inquire, whether the Cornelii, Junii, Fabii, Valerii, Quintii, Curii, Fabritii, and others, who moſt prevailed in Rome after the expulſion of the kings, or Sejanus, Macro, Narciſſus, Pallas, Icetus, Tigellinus, Vinnius, Laco, Agrippina, Meſſalina, Lollia, Poppæa, and the like, were moſt ſubject to thoſe baſe vices: whether it were more eaſy to corrupt one or two of thoſe villains and ſtrumpets, or the ſenates and people of Rome, Carthage, Athens, and Sparta; and whether that ſort of rabble had more power over the princes they ſerved, than ſuch as moſt reſembled them had whilſt the popular government continued. It is in vain to ſay thoſe princes were wicked and vile; for many others are ſo likewiſe; and when the power is in the hands of one man, there can be no aſſurance he will not be like them. Nay, when the power is ſo placed, ill men will always find opportunities of compaſſing their deſires: "Bonus, cautus, optimus imperator ven-" ditur," ſaid Diocleſian; and tho' he was no unwiſe man, yet that which principally induced him to renounce the empire, was the impoſſibility he found of defending himſelf againſt thoſe that were in credit with him, who daily betrayed and ſold him. They ſee with the eyes of other men, and cannot reſiſt the frauds that are perpetually put upon them. Antoninus Pius and Marcus Aurelius ſeem to have been the beſt and wiſeſt of all the Roman emperors; but the two Fauſtina's had ſuch an aſcendent over them, as was moſt ſhameful to their perſons, and miſchievous to the empire, and the beſt men in it. Such as theſe may gain too much upon the affections of one man in the beſt regulated government; but that could be of no great danger to the public, when many others, equal or not much inferior to him in authority, are ready to oppoſe whatever he ſhould endeavour to promote by their impulſe: but there is no remedy, when all depends upon the will

will of a ſingle perſon who is governed by them. There was more of acuteneſs and jeſt, than of truth, in that ſaying of Themiſtocles, " That his little boy had more power than any man in Greece; for " he governed his mother, ſhe him, he Athens, and Athens Greece." For he himſelf was found to have little power, when for private paſſions and concernments he departed from the intereſt of the public; and the like has been found in all places that have been governed in the like manner. SECT. 25.

Again, corruption will always reign moſt, where thoſe who have the power do moſt favour it, where the rewards of ſuch crimes are greateſt, eaſieſt, and moſt valued, and where the puniſhment of them is leaſt feared.

1. For the firſt, we have already proved, that liberty cannot be preſerved, if the manners of the people are corrupted, nor abſolute monarchy introduced where they are ſincere; which is ſufficient to ſhew, that thoſe who manage free governments ought always, to the utmoſt of their power, to oppoſe corruption, becauſe otherwiſe both they and their government muſt inevitably periſh; and that on the other hand, the abſolute monarch muſt endeavour to introduce it, becauſe he cannot ſubſiſt without it. It is alſo ſo natural for all ſuch monarchs to place men in power, who pretend to love their perſons, and will depend upon their pleaſure, that poſſibly it would be hard to find one in the world who has not made it the rule of his government: and this is not only the way to corruption, but the moſt dangerous of all. For tho' a good man may love a good monarch, he will obey him only when he commands that which is juſt; and no one can engage himſelf blindly to do whatever he is commanded, without renouncing all virtue and religion; becauſe he knows not whether that which ſhall be commanded is conſiſtent with either, or directly contrary to the laws of God and man. But if ſuch a monarch be evil, and his actions ſuch as they are too often found to be, whoever bears an affection to him, and ſeconds his deſigns, declares himſelf an enemy to all that is good; and the advancement of ſuch men to power does not only introduce, foment, and increaſe, corruption, but fortifies it in ſuch a manner, that without an intire renovation of that ſtate it cannot be removed. Ill men may poſſibly creep into any government; but when the worſt are placed neareſt to the throne, and raiſed to honours for being ſo, they will with that force endeavour to draw all men to a conformity of ſpirit with themſelves, that it can no otherwiſe be prevented, than by deſtroying them, and the principle in which they live.

2. To the ſecond; man naturally follows that which is good, or ſeems to him to be ſo. Hence it is, that in well-governed ſtates, where a value is put upon virtue, and no one honoured, unleſs for ſuch qualities as are beneficial to the public, men are from the tendereſt years brought up in a belief, that nothing in this world deſerves to be ſought after, but ſuch honours as are acquired by virtuous actions: by this means virtue itſelf becomes popular, as in Sparta, Rome, and other places, where riches (which, with the vanity that follows them, and the honours men give to them, are the root of all evil) were either totally baniſhed, or little regarded. When no other

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other advantage attended the greateſt riches than the opportunity of living more ſumptuouſly or deliciouſly, men of great ſpirits ſlighted them. When Ariſtippus told Cleanthes, that if he would go to court, and flatter the tyrant, he need not ſeek his ſupper under a hedge; the philoſopher anſwered, that he who could content himſelf with ſuch a ſupper, need not go to court, or flatter the tyrant. Epaminondas, Ariſtides, Phocion, and even the Lacedemonian kings, found no inconvenience in poverty, whilſt their virtue was honoured, and the richeſt princes in the world feared their valour and power. It was not difficult for Curius, Fabricius, Quintius Cincinnatus, or Paulus Emilius, to content themſelves with the narroweſt fortune, when it was no obſtacle to them in the purſuit of thoſe honours which their virtues deſerved. It was in vain to think of bribing a man who ſupped upon the coleworts of his own garden. He could not be gained by gold, who did not think it neceſſary. He that could riſe from the plough to the triumphal chariot, and contentedly return thither again, could not be corrupted; and he that left the ſenſe of his poverty to his executors, who found not wherewith to bury him, might leave Macedon and Greece to the pillage of his ſoldiers, without taking to himſelf any part of the booty. But when luxury was brought into faſhion, and they came to be honoured who lived magnificently, tho' they had in themſelves no qualities to diſtinguiſh them from the baſeſt of ſlaves, the moſt virtuous men were expoſed to ſcorn if they were poor: and that poverty which had been the mother and nurſe of their virtue, grew inſupportable. The poet well underſtood what effect this change had upon the world, who ſaid,

> " Nullum crimen abeſt, facinuſque libidinis, ex quo
> " Paupertas Romana perit." Juven. Sat. vi. 293.

When riches grew to be neceſſary, the deſire of them, which is the ſpring of all miſchief, followed. They who could not obtain honours by the nobleſt actions, were obliged to get wealth to purchaſe them from whores and villains, who expoſed them to ſale: and when they were once entered into this track, they ſoon learnt the vices of thoſe from whom they had received their preferment, and to delight in the ways that had brought them to it. When they were come to this, nothing could ſtop them: all thought and remembrance of good was extinguiſhed. They who had bought the commands of armies or provinces from Icetus or Narciſſus, ſought only how to draw money from them, to enable them to purchaſe higher dignities, or gain a more aſſured protection from thoſe patrons. This brought the government of the world under a moſt infamous traffic, and the treaſures ariſing from it were, for the moſt part, diſſipated by worſe vices than the rapine, violence, and fraud, with which they had been gotten. The authors of thoſe crimes had nothing left but their crimes, and the neceſſity of committing more through the indigence into which they were plunged by the extravagance of their expences. Theſe things are inſeparable from the life of a courtier; for as ſervile natures are guided rather

ther by ſenſe than reaſon, ſuch as addict themſelves to the ſervice of courts, find no other conſolation in their miſery, than what they receive from ſenſual pleaſures, or ſuch vanities as they put a value upon; and have no other care, than to get money for their ſupply by begging, ſtealing, bribing, and other infamous practices. Their offices are more or leſs eſteemed according to the opportunities they afford for the excerciſe of theſe virtues; and no man ſeeks them for any other end than for gain, nor takes any other way than that which conduces to it. The uſual means of attaining them are, by obſerving the prince's humour, flattering his vices, ſerving him in his pleaſures, fomenting his paſſions, and by advancing his worſt deſigns, to create an opinion in him, that they love his perſon, and are intirely addicted to his will. When valour, induſtry, and wiſdom, advanced men to offices, it was no eaſy matter for a man to perſuade the ſenate he had ſuch qualities as were required, if he had them not: but when princes ſeek only ſuch as love them, and will do what they command, it is eaſy to impoſe upon them; and becauſe none that are good will obey them when they command that which is not ſo, they are always encompaſſed by the worſt. Thoſe who follow them only for reward, are moſt liberal in profeſſing affection to them, and by that means riſe to places of authority and power. The fountain being thus corrupted, nothing that is pure can come from it. Theſe mercenary wretches having the management of affairs, juſtice and honours are ſet at a price, and the moſt lucrative traffick in the world is thereby eſtabliſhed. * Eutropius, when he was a ſlave, uſed to pick pockets and locks; but, being made a miniſter, he ſold cities, armies, and provinces: and ſome have undertaken to give probable reaſons to believe, that Pallas, one of Claudius's manumiſed ſlaves, by theſe means brought together more wealth in ſix years, than all the Roman dictators and conſuls had done from the expulſion of the kings to their paſſage into Aſia. The reſt walked in the ſame way, uſed the ſame arts, and many of them ſucceeded in the ſame manner. Their riches conſiſted not of ſpoils taken from enemies, but were the baſe product of their own corruption. They valued nothing but money, and thoſe who would bribe them, were ſure to be advanced to the higheſt offices; and whatever they did, feared no puniſhment. Like effects will ever proceed from the like cauſes. When vanity, luxury, and prodigality are in faſhion, the deſire of riches muſt neceſſarily increaſe in proportion to them: and when the power is in the hands of baſe mercenary perſons, they will always (to uſe the courtiers phraſe) make as much profit of their places as they can. Not only matters of favour, but of juſtice too, will be expoſed to ſale; and no way will be open to honours or magiſtracies, but by paying largely for them. He that gets an office by theſe means, will not execute it gratis: he thinks he may ſell what he has bought; and would not have entered by corrupt ways, if he had not intended to deal corruptly. Nay, if a well-meaning man ſhould ſuffer himſelf to be ſo far carried away by

SECT. 25.

*——Nunc uberiore rapina
Peccat in orbe manus. Claud.

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the ſtream of a prevailing cuſtom, as to purchaſe honours of ſuch villains, he would be obliged to continue in the ſame courſe, that he might gain riches to procure the continuance of his benefactors protection, or to obtain the favour of ſuch as happen to ſucceed them: and the corruption thus beginning in the head, muſt neceſſarily diffuſe itſelf into all the members of the common wealth: or, if any one (which is not to be expected,) after having been guilty of one villainy, ſhould reſolve to commit no more, it could have no other effect than to bring him to ruin; and he being taken away, all things would return to their former chanel.

Beſides this, whoſoever deſires to advance himſelf, muſt uſe ſuch means as are ſuitable to the time in which he lives, and the humour of the perſons with whom he is to deal. It had been as abſurd for any man void of merit to ſet himſelf up againſt Junius Brutus, Cincinnatus, Papirius Curſor, Camillus, Fabius Maximus, or Scipio; and, by bribing the ſenate and people of Rome, think to be choſen captain againſt the Tarquins, Tuſcans, Latins, Samnites, Gauls, or Carthaginians; as for the moſt virtuous men by the moſt certain proofs of their wiſdom, experience, integrity, and valour, to expect advancement from Caligula, Claudius, and Nero, or the lewd wretches that governed them. They hated and feared all thoſe that excelled in virtue; and, ſetting themſelves to deſtroy the beſt for being the beſt, they placed the ſtrength of the government in the hands of the worſt, which produced the effects beforementioned. This ſeems to have been ſo well known, that no man pretended to be great at court, but thoſe who had caſt off all thoughts of honour and common honeſty. "Revertar, cum leno, meretrix, ſcurra, cinædus ero," ſaid one who ſaw what manners prevailed there; and whereſoever they do prevail, ſuch as will riſe, muſt render themſelves conformable in all corruption and venality. And it may be obſerved, that a noble perſon now living amongſt us, who is a great enemy to bribery, was turned out from a conſiderable office, as a ſcandal to the court; for, ſaid the principal miniſter, he will make no profit of his place, and by that means caſts a ſcandal upon thoſe that do.

If any man ſay, this is not generally the fate of all courts, I confeſs it; and that, if the prince be juſt, virtuous, wiſe, of great ſpirit, and not pretending to be abſolute, he may chuſe ſuch men as are not mercenary, or take ſuch a courſe as may render it hard for them to deſerve bribes, or to preſerve themſelves from puniſhment, if they ſhould deflect from his intention. And a prince of this age, ſpeaking familiarly with ſome great men about him, ſaid, he had heard much of vaſt gains made by thoſe who were near to princes; and aſked if they made the like? One of them anſwered, that they were as willing as others to get ſomething, but that no man would give them a farthing; for, every one finding a free admittance to his majeſty, no man needed a ſolicitor. And it was no leſs known, that he did of himſelf grant thoſe things that were juſt, than that none of them had ſo much credit as to promote ſuch as were not ſo. I will not ſay ſuch a king is a phenix: perhaps more than one may be found in an age; but they are certainly rare; and, all that is good in their government proceeding from the excellency of their perſonal virtues, it muſt

muſt fail, when that virtue fails, which was the root of it. Experience ſhews how little we can rely upon ſuch a help; for, where crowns are hereditary, children ſeldom prove like to their fathers; and ſuch as are elective have alſo their defects. Many ſeem to be modeſt and innocent in private fortunes, who prove corrupt and vitious, when they are raiſed to power. The violence, ſpite, and malice of Saul was never diſcovered, till the people had placed him in the throne. But where the government is abſolute, or the prince endeavours to make it ſo, this integrity can never be found: he will always ſeek ſuch as are content to depend upon his will; which being always unruly, good men will never comply; ill men will be paid for it, and that opens a gap to all manner of corruption. Something like to this may befal regular monarchies, or popular governments. They who are placed in the principal offices of truſt may be treacherous; and when they are ſo, they will always by theſe means ſeek to gain partizans and dependents upon themſelves. Their deſigns being corrupt, they muſt be carried on by corruption; but ſuch as would ſupport monarchy in its regularity, or popular governments, muſt oppoſe it, or be deſtroyed by it. And nothing can better manifeſt how far abſolute monarchies are more ſubject to this venality and corruption than the regular and popular governments, than that they are rooted in the principle of the one, which cannot ſubſiſt without them; and are ſo contrary to the others, that they muſt certainly periſh, unleſs they defend themſelves from them. SECT. 25.

If any man be ſo far of another opinion, as to believe, that Brutus, Camillus, Scipio, Fabius, Hannibal, Pericles, Ariſtides, Ageſilaus, Epaminondas, or Pelopidas, were as eaſily corrupted as Sejanus, Tigellinus, Vinnius, or Laco; that the ſenate and people of Rome, Carthage, Athens, Sparta, or Thebes, were to be bought at as eaſy rates as one profligate villain, a ſlave, an eunuch, or a whore; or tho' it was not in former ages, yet it is ſo now; he may be pleaſed to conſider by what means men now riſe to places of judicature, church preferment, or any offices of truſt, honour, or profit, under thoſe monarchies which we know, that either are or would be abſolute. Let him examine how all the offices of juſtice are now diſpoſed of in France; how Mazarin came to be advanced; what traffick he made of abbies and biſhopricks, and what treaſures he gained by that means; whether the like has not continued ſince his death, and as a laudable example been tranſmitted to us ſince his majeſty's happy reſtauration; whether bawds, whores, thieves, buffoons, paraſites, and ſuch vile wretches as are naturally mercenary, have not more power at Whitehall, Verſailles, the Vatican, and the Eſcurial, than in Venice, Amſterdam, and Switzerland: whether Hide, Arlington, Danby, their graces of Cleveland and Portſmouth, Sunderland, Jenkins, or Chiffinch, could probably have attained ſuch power as they have had amongſt us, if it had been diſpoſed of by the ſuffrages of the parliament and people; or laſtly, whether ſuch as know only how to work upon the perſonal vices of a man, have more influence upon one who happens to be born in a reigning family, or upon a ſenate conſiſting of men choſen for their virtues and quality, or the whole body of a nation.

But

CHAP. II.

But if he who poſſeſſes or affects an abſolute power, be by his intereſt led to introduce that corruption, which the people, ſenate, and magiſtrates, who uphold popular governments, abhor, as that which threatens them with deſtruction; if the example, arts, and means uſed by him and his dependents, be of wonderful efficacy towards the introduction of it; if nothing but an admirable virtue, which can hardly be in one that enjoys or deſires ſuch a power, can divert him from that deſign; and if ſuch virtue never did, nor probably ever will, continue long in any one family; we cannot rationally believe there ever was a race of men inveſted with, or poſſeſſing ſuch a power, or that there will ever be any who have not, and will not endeavour to introduce that corruption, which is ſo neceſſary to the defence of their perſons, and moſt important concernments, and certainly accompliſh their great deſign, unleſs they are oppoſed or removed.

SECT. XXVI.

Civil tumults and wars are not the greateſt evils that befal nations.

"BUT ſkin for ſkin," ſays our author, "and all that a man hath, "will he give for his life." And ſince it was neceſſary to grace his book with ſome ſcripture phraſes, none could be fitter for that purpoſe than thoſe that were ſpoken by the devil: but they will be of little uſe to him; for tho' I ſhould ſo far recede from truth, as to avow thoſe words to be true, I might ſafely deny the concluſions he draws from them, "That thoſe are the worſt governments, under which "moſt men are ſlain; or that more are ſlain in popular governments, "than in abſolute monarchies." For, having proved that all the wars and tumults that have happened in commonwealths, have never produced ſuch ſlaughters as were brought upon the empires of Macedon and Rome, or the kingdoms of Iſrael, Judah, France, Spain, Scotland, or England, by conteſts between ſeveral competitors for thoſe crowns; if tumult, war, and ſlaughter, be the point in queſtion, thoſe are the worſt of all governments, where they have been moſt frequent and cruel. But tho' theſe are terrible ſcourges, I deny that government to be ſimply the worſt, that has moſt of them. It is ill, that men ſhould kill one another in ſeditions, tumults, and wars; but it is worſe, to bring nations to ſuch miſery, weakneſs, and baſeneſs, as to have neither ſtrength nor courage to contend for any thing; to have left nothing worth defending, and to give the name of peace to deſolation. I take Greece to have been happy and glorious, when it was full of populous cities, flouriſhing in all the arts that deſerve praiſe among men; when they were courted and feared by the greateſt kings, and never aſſaulted by any but to his own loſs and confuſion; when Babylon and Suſa trembled at the motion of their arms; and their valour, exerciſed in thoſe wars and tumults, which our author looks upon as the greateſt evils, was raiſed to ſuch

ſuch a power, that nothing upon earth was found able to reſiſt them: and I think it now miſerable, when peace reigns within their empty walls, and the poor remains of thoſe exhauſted nations, ſheltering themſelves under the ruins of the deſolated cities, have neither any thing that deſerves to be diſputed amongſt them, nor ſpirit or force to repel the injuries they daily ſuffer from a proud and inſupportable maſter. SECT. 26.

The like may be ſaid of Italy: whilſt it was inhabited by nations governing themſelves by their own will, they fell ſometimes into domeſtic ſeditions, and had frequent wars with their neighbours. When they were free, they loved their country, and were always ready to fight in its defence. Such as ſucceeded well, increaſed in vigour and power; and even thoſe that were the moſt unfortunate in one age, found means to repair their greateſt loſſes, if their government continued. Whilſt they had a propriety in their goods, they would not ſuffer the country to be invaded, ſince they knew they could have none, if it were loſt. This gave occaſion to wars and tumults; but it ſharpened their courage, kept up a good diſcipline, and the nations that were moſt exerciſed by them, always increaſed in power and number; ſo that no country ſeems ever to have been of greater ſtrength than Italy was when Hannibal invaded it: and after his defeat, the reſt of the world was not able to reſiſt their valour and power. They ſometimes killed one another; but their enemies never got any-thing but burying-places within their territories. All things are now brought into a very different method by the bleſſed governments they are under. The fatherly care of the king of Spain, the pope, and other princes, has eſtabliſhed peace amongſt them. We have not in many ages heard of any ſedition among the Latins, Sabines, Volſci, Equi, Samnites, or others. The thin, half-ſtarv'd inhabitants of walls ſupported by ivy, fear neither popular tumults, nor foreign alarms; and their ſleep is only interrupted by hunger, the cries of their children, or the howling of wolves. Inſtead of many turbulent, contentious cities, they have a few ſcatter'd ſilent cottages; and the fierceneſs of thoſe nations is ſo tempered, that every raſcally collector of taxes extorts without fear from every man, that which ſhould be the nouriſhment of his family. And if any of thoſe countries are free from that pernicious vermin, it is through the extremity of their poverty. Even in Rome a man may be circumvented by the fraud of a prieſt, or poiſoned by one who would have his eſtate, wife, whore, or child; but nothing is done that looks like tumult or violence. The governors do as little fear Gracchus as Hannibal; and inſtead of wearying their ſubjects in wars, they only ſeek, by perverted laws, corrupt judges, falſe witneſſes, and vexatious ſuits, to cheat them of their money and inheritance. This is the beſt part of their condition. Where theſe arts are uſed, there are men, and they have ſomething to loſe; but for the moſt part the lands lie waſte, and they who were formerly troubled with the diſorders incident to populous cities, now enjoy the quiet and peaceable eſtate of a wilderneſs.

CHAP. II.

Again, there is a way of killing worſe than that of the ſword: for, as Tertullian ſays upon a different occaſion, "Prohibere naſci eſt occi-"dere;" thoſe governments are in the higheſt degree guilty of blood, which, by taking from men the means of living, bring ſome to periſh through want, drive others out of the country, and generally diſſuade men from marriage, by taking from them all ways of ſubſiſting their families. Notwithſtanding all the ſeditions of Florence, and other cities of Tuſcany, the horrid factions of Guelphs and Ghibelins, Neri and Bianchi, nobles and commons, they continued populous, ſtrong, and exceeding rich; but in the ſpace of leſs than a hundred and fifty years, the peaceable reign of the Medices is thought to have deſtroyed nine parts in ten of the people of that province. Amongſt other things it is remarkable, that when Philip the Second of Spain gave Sienna to the duke of Florence, his embaſſador then at Rome ſent him word, that he had given away more than ſix hundred and fifty thouſand ſubjects; and it is not believed there are now twenty thouſand ſouls inhabiting that city and territory. Piſa, Piſtoia, Arezzo, Cortona, and other towns, that were then good and populous, are in the like proportion diminiſhed, and Florence more than any. When that city had been long troubled with ſeditions, tumults, and wars, for the moſt part unproſperous, they ſtill retained ſuch ſtrength, that when Charles the Eighth of France, being admitted as a friend with his whole army, which ſoon after conquered the kingdom of Naples, thought to maſter them, the people, taking arms, ſtruck ſuch a terror into him, that he was glad to depart upon ſuch conditions as they thought fit to impoſe. Machiavel reports, that in that time Florence alone, with the Val d'Arno, a ſmall territory belonging to that city, could, in a few hours, by the ſound of a bell, bring together a hundred and thirty-five thouſand well armed men; whereas now that city, with all the others in that province, are brought to ſuch deſpicable weakneſs, emptineſs, poverty, and baſeneſs, that they can neither reſiſt the oppreſſions of their own prince, nor defend him or themſelves, if they were aſſaulted by a foreign enemy. The people are diſperſed or deſtroyed, and the beſt families ſent to ſeek habitations in Venice, Genoa, Rome, Naples, and Lucca. This is not the effect of war or peſtilence; they enjoy a perfect peace, and ſuffer no other plague than the government they are under. But he who has thus cured them of diſorders and tumults, does, in my opinion, deſerve no greater praiſe than a phyſician, who ſhould boaſt there was not a ſick perſon in a houſe committed to his care, when he had poiſoned all that were in it. The Spaniards have eſtabliſhed the like peace in the kingdoms of Naples and Sicily, the Weſt-Indies, and other places. The Turks by the ſame means prevent tumults in their dominions. And they are of ſuch efficacy in all places, that Mario Chigi brother to pope Alexander the Seventh, by one ſordid cheat upon the ſale of corn, is ſaid within eight years to have deſtroyed above a third part of the people in the eccleſiaſtical ſtate; and that country which was the ſtrength of the Romans in the time of the Carthaginian wars, ſuffered more by the covetouſneſs and fraud of that villain, than by all the defeats received from Hannibal.

Guicciard.

It

It were an endleſs work to mention all the places where this peaceable ſolitude has been introduced by abſolute monarchy; but popular and regular governments have always applied themſelves to increaſe the number, ſtrength, power, riches, and courage, of their people, by providing comfortable ways of ſubſiſtence for their own citizens, inviting ſtrangers, and filling them all with ſuch a love to their country, that every man might look upon the public cauſe as his own, and be always ready to defend it. This may ſometimes give occaſion to tumults and wars, as the moſt vigorous bodies may fall into diſtempers: when every one is ſolicitous for the public, there may be difference of opinion, and ſome, by miſtaking the way, may bring prejudice when they intend profit: but unleſs a tyrant do ariſe, and deſtroy the government which is the root of their felicity; or they be overwhelmed by the irreſiſtible power of a virtue or fortune greater than their own, they ſoon recover, and, for the moſt part, riſe up in greater glory and proſperity than before. This was ſeen in the commonwealths of Greece and Italy, which for this reaſon were juſtly called nurſeries of virtue, and their magiſtrates preſervers of men; whereas our author's peace making monarchs can deſerve no better title than that of enemies and deſtroyers of mankind. SECT. 26.

I cannot think him in earneſt, when he exaggerates Sylla's cruelties, as a proof, that the miſchiefs ſuffered under free ſtates are more univerſal, than under kings and tyrants: for there never was a tyrant in the world, if he was not one, tho' through wearineſs, infirmity of body, fear, or perhaps the horror of his own wickedneſs, he at length reſigned his power; but the evil had taken root ſo deep, that it could not be removed: there was nothing of liberty remaining in Rome: the laws were overthrown by the violence of the ſword: the remaining conteſt was, who ſhould be lord; and there is no reaſon to believe, that if Pompey had gained the battle of Pharſalia, he would have made a more modeſt uſe of his victory than Cæſar did; or that Rome would have been more happy under him than under the other. His cauſe was more plauſible becauſe the ſenate followed him, and Cæſar was the invader; but he was no better in his perſon, and his deſigns ſeem to have been the ſame. He had been long before "ſuarum legum auctor & everſor." He gave the beginning to the firſt triumvirate; and it were folly to think, that he who had been inſolent when he was not come to the higheſt pitch of fortune, would have proved moderate if ſucceſs had put all into his hands. The proceedings of Marius, Cinna, Catiline, Octavius, and Antonius, were all of the ſame nature. No laws were obſerved: no public good intended; the ambition of private perſons reigned; and whatſoever was done by them, or for their intereſts, can no more be applied to popular, ariſtocratical, or mixed governments, than the furies of Caligula and Nero.

SECT.

SECT. XXVII.

The miſchiefs and cruelties proceeding from tyranny, are greater than any that can come from popular or mixed governments.

IT is now time to examine the reaſons of our author's general maxims. "The cruelties," ſays he, "of a tyrant extend ordinarily "no farther than ſome particular men that offend him, and not to the "whole kingdom. It is truly ſaid of his late majeſty king James, "a king can never be ſo notoriouſly vitious, but he will generally "favour juſtice, and maintain ſome order. Even cruel Domitian, "Dionyſius the tyrant, and many others, are commended in hiſtories "as great obſervers of juſtice, except in particular caſes, wherein his "inordinate luſts may carry him away." This may be ſaid of popular governments; for tho' a people through error do ſometimes hurt a private perſon, and that may poſſibly reſult to the public damage, becauſe the man that is offended or deſtroyed, might have been uſeful to the ſociety, they never do it otherwiſe than by error: for, having the government in themſelves, whatever is prejudicial to it, is ſo to them; and if they ruin it, they ruin themſelves, which no man ever did willingly and knowingly. In abſolute monarchies the matter is quite otherwiſe. A prince that ſets up an intereſt in himſelf, becomes an enemy to the public: in following his own luſts he offends all, except a few of his corrupt creatures, by whoſe help he oppreſſes others with a yoke they are unwilling to bear, and thereby incurs the univerſal hatred. This hatred is always proportionable to the injuries received, which being extreme, that muſt be ſo too; and every people being powerful in compariſon to the prince that governs, he will always fear thoſe that hate him, and always hate thoſe he fears. When Luigi Farneſe firſt duke of Parma had by his tyranny incenſed the people of that ſmall city, their hatred was not leſs mortal to him than that of the whole empire had been to Nero; and as the one burned Rome, the other would have deſtroyed Parma, if he had not been prevented. The like has been, and will be every-where, inaſmuch as every man endeavours to deſtroy thoſe he hates and fears; and the greatneſs of the danger often drives this * fear to rage and madneſs. For this reaſon Caligula wiſhed but one neck to all the people; and Nero triumphed over the burning city, thinking by that ruin he had prevented his own danger. I know not who the good authors are that commend Domitian for his juſtice; but Tacitus calls him "principem virtutibus infeſtum;" and it is hard to find out how ſuch a man can be an obſerver of juſtice, unleſs it be juſt, that whoever dares to be virtuous under a vitious and baſe prince ſhould be deſtroyed. Another † author of the ſame time, ſpeaking of him, does

Tac. in vit. Agric.

* Cuncta ferit, dum cuncta timet. Lucan.

† Cum jam ſemianimem laceraret Flavius orbem
Tertius, & calvo ſerviret Roma tyranno. Juvenal.

does not ſay he was unjuſt, but gives us reaſon to think he was ſo, unleſs it were juſt for him, who had a power over the beſt part of the world, to deſtroy it; and that he, who by his cruelty had brought it to the laſt gaſp, would have finiſhed the work, if his rage had not been extinguiſhed. SECT. 27.

Many princes not having in themſelves power to deſtroy their people, have ſtirred up foreign nations againſt them, and placed the only hopes of their ſafety in the public calamity; and lawful kings, when they have fallen into the firſt degree of madneſs, ſo as to aſſume a power above that which was allowed by the law, have in fury proved equal to the worſt uſurpers. Cleonymus of Sparta was of this ſort: he became, ſays Plutarch, an enemy to the city, becauſe they would not allow him the abſolute power he affected; and brought Pyrrhus, the fierceſt of their enemies, with a mighty and excellently well diſciplined army, to deſtroy them. Vortigern the Briton called in the Saxons with the ruin of his own people, who were incenſed againſt him for his lewdneſs, cruelty, and baſeneſs. King John for the like reaſons offered the kingdom of England to the Moors, and to the pope. Peter the Cruel, and other kings of Caſtille, brought vaſt armies of Moors into Spain, to the ruin of their own people, who deteſted their vices, and would not part with their privileges. Many other examples of the like nature might be alledged; and I wiſh our own experience did not too well prove that ſuch deſigns are common. Let him that doubts this, examine the cauſes of the wars with Scotland in the years 1639, 1640; the ſlaughters of the proteſtants in Ireland 1641; the whole courſe of alliances and treaties for the ſpace of fourſcore years; the friendſhip contracted with the French; frequent quarrels with the Dutch, together with other circumſtances that are already made too public: if he be not convinced by this, he may ſoon ſee a man in the throne, who had rather be a tributary to France than a lawful king of England, whilſt either parliament or people ſhall dare to diſpute his commands, inſiſt upon their own rights, or defend a religion inconſiſtent with that which he has eſpouſed; and then the truth will be ſo evident as to require no proof.

Plut. vit. Pyrrh.

Math. Weſt.

Grotius was never accuſed of dealing hardly with kings, or laying too much weight upon imaginary caſes; nevertheleſs, amongſt other reaſons, that, in his opinion, juſtify ſubjects in taking arms againſt their princes, he alledges this, "propter immanem ſævitiam," and "quando rex in populi exitium fertur;" inaſmuch as it is "contrary "to, and inconſiſtent with, the ends for which governments are in-"ſtituted;" which were moſt impertinent, if no ſuch thing could be; for that which is not, can have no effect. There are therefore princes who ſeek the deſtruction of their people, or none could be juſtly oppoſed on that account.

De jure belli.

If king James was of another opinion, I could wiſh the courſe of his government had been ſuited to it. When he ſaid, that whilſt he had the power of making judges and biſhops, he would make that to be law and goſpel, which beſt pleaſed him, and filled thoſe places with ſuch as turned both according to his will and intereſts, I muſt think, that by overthrowing juſtice, which is the rule of civil and

CHAP. II.

moral actions, and perverting the goſpel, which is the light of the ſpiritual man, he left nothing unattempted that he durſt attempt, by which he might bring the moſt extenſive and univerſal evils upon our nation that any can ſuffer. This would ſtand good, tho' princes never erred, unleſs they were "tranſported with ſome inordinate luſts;" for it is hard to find one that does not live in the perpetual power of them. They are naturally ſubject to the impulſe of ſuch appetites as well as others, and whatever evil reigns in their nature is fomented by education. It is the handle by which their flatterers lead them; and he that diſcovers to what vice a prince is moſt inclined, is ſure to govern him by rendering himſelf ſubſervient. In this conſiſts the chief art of a courtier, and by this means it comes to paſs, that ſuch luſts as in private men are curbed by fear, do not only rage as in a wild beaſt, but are perpetually inflamed by the malice of their own ſervants: their hatred to the laws of God or men, that might reſtrain them, increaſes in proportion with their vices, or their fears of being puniſhed for them. And when they are come to this, they can ſet no limits to their fury, and there is no extravagance into which they do not frequently fall. But many of them do not expect theſe violent motives: the perverſity of their own nature carries them to the extremities of evil. They hate virtue for its own ſake, and virtuous men for being moſt unlike to themſelves. Virtue is the dictate of reaſon, or the remains of divine light, by which men are made beneficent and beneficial to each other. Religion proceeds from the ſame ſpring; and tends to the ſame end; and the good of mankind ſo intirely depends upon theſe two, that no people ever enjoyed anything worth deſiring that was not the product of them; and whatſoever any have ſuffered that deſerves to be abhorred and feared, has proceeded either from the defect of theſe, or the wrath of God againſt them. If any prince therefore has been an enemy to virtue and religion, he muſt alſo have been an enemy to mankind, and moſt eſpecially to the people under him. Whatſoever he does againſt thoſe that excel in virtue and religion, tends to the deſtruction of the people who ſubſiſt by them. I will not take upon me to define who they are, or to tell the number of thoſe that do this: but it is certain there have been ſuch; and I wiſh I could ſay they were few in number, or that they had lived only in paſt ages. Tacitus does not fix this upon one prince, but upon all that he writes of; and to give his readers a taſte of what he was to write, he ſays, "that nobility and honours "were dangerous, but that virtue brought moſt certain deſtruction;" and in another place, that "after the ſlaughter of many excellent "men, Nero reſolved to cut down virtue itſelf, and therefore killed "Thraſeas Pætus, and Bareas Soranus." And whoſoever examines the chriſtian or eccleſiaſtical hiſtories, will find thoſe princes to have been no leſs enemies to virtue and religion than their predeceſſors, and conſequently enemies to the nations under them, unleſs religion and virtue be things prejudicial or indifferent to mankind.

C. Tacit. hiſt. l. i. Ann. l. xvi. 21.

But our author may ſay, theſe were particular caſes; and ſo was the ſlaughter of the prophets and apoſtles, the crucifixion of Chriſt, and all the villainies that have ever been committed; yet they proceeded from a univerſal principle of hatred to all that is good, exerting itſelf

itſelf as far as it could, to the ruin of mankind: and nothing but the over-ruling power of God, who reſolved to preſerve to himſelf a people, could ſet bounds to their rage, which in other reſpects had as full ſucceſs as our author, or the devil, could have wiſhed. SECT. 27.

Dionyſius (his other example of juſtice) deſerves obſervation: more falſhood, lewdneſs, treachery, ingratitude, cruelty, baſeneſs, avarice, impudence, and hatred to all manner of good, was hardly ever known in a mortal creature. For this reaſon, Diogenes ſeeing him at Corinth, tho' in a poor and contemptible condition, ſaid, he rather deſerved to have continued in the miſery, fears, and villainies, of his tyranny, than to be ſuffered peaceably to converſe with honeſt men. And if ſuch as theſe are to be called obſervers of juſtice, it muſt be concluded, that the laws of God, and of men, are either of no value, or contrary to it; and that the deſtruction of nations is a better work than their preſervation. No faith is to be obſerved: temples may be juſtly ſacked; the beſt men ſlain for daring to be better than their maſters; and the whole world, if it were in the power of one man, rightly torn in pieces and deſtroyed.

His reaſons for this are as good as his doctrine: "It is," ſaith he, "the multitude of people, and abundance of riches, that are the "glory and ſtrength of every prince: the bodies of his ſubjects do "him ſervice in war, and their goods ſupply his wants. Therefore "if not out of affection to his people, yet out of natural love unto "himſelf, every tyrant deſires to preſerve the lives and goods of his "ſubjects." I ſhould have thought that princes, tho' tyrants, being God's vicegerents, and fathers of their people, would have ſought their good, tho' no advantage had thereby redounded to themſelves, but it ſeems no ſuch thing is to be expected from them. They conſider nations, as graſiers do their herds and flocks, according to the profit that can be made of them: and if this be ſo, a people has no more ſecurity under a prince, than a herd or flock under their maſter. Tho' he deſire to be a good huſband, yet they muſt be delivered up to the ſlaughter when he finds a good market, or a better way of improving his land; but they are often fooliſh, riotous, prodigal, and wantonly deſtroy their ſtock, tho' to their own prejudice. We thought that all princes and magiſtrates had been ſet up, that under them we might live quietly and peaceably, in all godlineſs and honeſty: but our author teaches us, that they only ſeek what they can make of our bodies and goods, and that they do not live and reign for us, but for themſelves. If this be true, they look upon us not as children, but as beaſts, nor do us any good for our own ſakes, or becauſe it is their duty, but only that we may be uſeful to them, as oxen are put into plentiful paſtures that they may be ſtrong for labour, or fit for ſlaughter. This is the divine model of government that he offers to the world. The juſt magiſtrate is the miniſter of God for our good: but this abſolute monarch has no other care of us, than as our riches and multitude may increaſe his own glory and ſtrength. We might eaſily judge what would be the iſſue of ſuch a principle, when the being of nations depending upon his will, muſt alſo depend upon his opinion, whether the ſtrength, multitude, and riches, of a people, do conduce to the increaſe of glory and power, or not, tho' hiſtories were

ſilent

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ſilent in the caſe; for theſe things ſpeak of themſelves. The judgment of a ſingle man is not to be relied upon; the beſt and wiſeſt do often err, the fooliſh and perverſe always; and our diſcourſe is not of what Moſes or Samuel would do, but what may come into the fancy of a furious or wicked man, who may uſurp the ſupreme power, or a child, a woman, or a fool, that may inherit it. Beſides, the propoſition upon which he builds his concluſion, proves often falſe: for as the riches, power, number, and courage, of our friends, is for our advantage, and that of our enemies threatens us with ruin; thoſe princes only can reaſonably believe the ſtrength of their ſubjects beneficial to them, who govern ſo as to be aſſured of their affection, and that their ſtrength will be employed for them: but thoſe who know they are, or deſerve to be hated, cannot but think it will be employed againſt them, and always ſeek to diminiſh that which creates their danger. This muſt certainly befal as many as are lewd, fooliſh, negligent, imprudent, cowardly, wicked, vitious, or any way unworthy the places they obtain; for their reign is a perpetual exerciſe of the moſt extreme and ruinous injuſtice: every man that follows an honeſt intereſt, is prejudiced: every one who finds the power that was ordained for his good, to be turned to his hurt, will be angry, and hate him that does it: if the people be of uncorrupted manners, this hatred will be univerſal, becauſe every one of them deſires that which is juſt; if compoſed of good and evil, the firſt will always be averſe to the evil government, and the others endeavouring to uphold it, the ſafety of the prince muſt depend upon the prevalence of either party. If the beſt prove to be the ſtrongeſt, he muſt periſh: and knowing himſelf to be ſupported only by the worſt, he will always deſtroy as many of his enemies as he can; weaken thoſe that remain; enrich his creatures with their ſpoils and confiſcations; by fraud and rapine accumulate treaſures to increaſe the number of his party, and advance them into all places of power and truſt, that by their aſſiſtance he may cruſh his adverſaries; and every man is accounted his adverſary who has either eſtate, honour, virtue, or reputation. This naturally caſts all the power into the hands of thoſe who have no ſuch dangerous qualities, nor any thing to recommend them, but an abſolute reſignation of themſelves to do whatever they are commanded. Theſe men having neither will nor knowledge to do good, as ſoon as they come to be in power, juſtice is perverted, military diſcipline neglected, the public treaſures exhauſted, new projects invented to raiſe more; and the princes wants daily increaſing, through their ignorance, negligence, or deceit, there is no end of their devices and tricks to gain ſupplies. To this end, ſwarms of ſpies, informers, and falſe witneſſes, are ſent out to circumvent the richeſt and moſt eminent men: the tribunals are filled with court-paraſites of profligate conſciences, fortunes, and reputation, that no man may eſcape who is brought before them. If crimes are wanting, the diligence of well-choſen officers and proſecutors, with the favour of the judges, ſupply all defects; the law is made a ſnare; virtue ſuppreſſed, vice fomented, and, in a ſhort time, honeſty and knavery, ſobriety and lewdneſs, virtue and vice, become badges of the ſeveral

factions; and every man's converſation and manners ſhewing to what party he is addicted, the prince who makes himſelf head of the worſt, muſt favour them to the overthrow of the beſt, which is ſo ſtreight a way to an univerſal ruin, that no ſtate can prevent it, unleſs that courſe be interrupted. SECT. 28.

Theſe things conſidered, no general judgment can be made of a magiſtrate's counſels, from his name or duty. He that is juſt, and become grateful to the people by doing good, will find his own honour and ſecurity in increaſing their number, riches, virtue, and power: if on the other ſide, by doing evil, he has drawn upon himſelf the public hatred, he will always endeavour to take from them the power of doing him any hurt, by bringing them into the utmoſt weakneſs, poverty, and baſeneſs. And whoever would know whether any particular prince deſires to increaſe or deſtroy the bodies and goods of his ſubjects, muſt examine whether his government be ſuch as renders him grateful or odious to them; and whether he do purſue the public intereſt, or for the advancement of his own authority ſet up one in himſelf contrary to that of his people; which can never befal a popular government, and conſequently, no miſchief equal to it can be produced by any ſuch, unleſs ſomething can be imagined worſe than corruption and deſtruction.

SECT. XXVIII.

Men living under popular or mixed governments are more careful of the public good, than in abſolute monarchies.

OUR author delighting in ſtrange things, does in the next place, with an admirable ſagacity, diſcover two faults in popular governments, that were never found by any man before him; and theſe are no leſs than ignorance and negligence. Speaking of the care of princes to preſerve their ſubjects, he adds, "On the contrary, "in a popular ſtate, every man knows the public good doth not "wholly depend upon his care, but the commonwealth may be well "enough governed by others, tho' he only tend his private buſineſs.' And a little below, "Nor are they much to be blamed for their neg- "ligence, ſince it is an even wager their ignorance may be as great. "The magiſtrates amongſt the people being for the moſt part annual, "do always lay down their office before they underſtand it; ſo as a "prince of a duller underſtanding muſt needs excel them." This is bravely determined, and the world is beholden to Filmer for the diſcovery of the errors that have hitherto been epidemical. Moſt men had believed, that ſuch as live in free ſtates, are uſually pleaſed with their condition, deſire to maintain it; and every man finding his own good comprehended in the public, as thoſe that ſail in the ſame ſhip, employs the talent he has in endeavouring to preſerve it, knowing that he muſt periſh if that miſcarry. This was an encouragement to induſtry; and the continual labours and dangers to which the Romans,

CHAP. II. and other free nations, expoſed themſelves, have been taken for teſtimonies that they thought themſelves concerned in the buſineſſes that paſſed among them, and that every one did not neglect them through an opinion that they would be done well enough by others. It was alſo thought, that free cities, by frequent elections of magiſtrates, became nurſeries of great and able men, every man endeavouring to excel others, that he might be advanced to the honour he had no other title to than what might ariſe from his merit or reputation; in which they ſucceeded ſo well, that one of them may be juſtly ſaid to have produced more eminent men, than all the abſolute monarchies that have been in the world. But theſe were miſtakes. Perhaps Brutus, Valerius, and other Roman ſenators or magiſtrates, for the ſpace of three hundred years, might have taken ſome care of the commonwealth, if they had thought it wholly depended upon one of them. But believing it would be well enough governed by others, they neglected it. Camillus, Cincinnatus, Papirius, Fabius, Rullus and Maximus, Scipio Africanus, Amilcar, Hannibal, Pericles, Themiſtocles, Alcibiades, Epaminondas, Philopœmen, and others, might have proved able men in affairs of war or government; but they were removed from their offices before they underſtood them, and muſt needs be excelled in both by princes, tho' of duller underſtanding. This may be enough to excuſe them for performing their duty ſo ſlackly and meanly: but it is ſtrange, that Tacitus, and others, ſhould ſo far overlook the reaſon, and ſo groſly miſtake the matter of fact, as not only to ſay, that great and excellent ſpirits failed when liberty was loſt, and all preferments given to thoſe who were moſt propenſe to ſlavery; but that there wanted men even to write the hiſtory, Tacit. annal. i. "inſcitia reipublicæ ut alienæ." They never applied themſelves to underſtand affairs depending upon the will of one man, in whom they were no otherwiſe concerned, than to avoid the effects of his rage; and that was chiefly to be done, by not falling under the ſuſpicion of being virtuous. This was the ſtudy then in requeſt; and the moſt cunning in this art were called "ſcientes temporum:" no other wiſdom was eſteemed in that and the enſuing ages, and no more was required, ſince the paternal care, deep wiſdom, and profound judgment of the princes provided for all; and tho' they were of duller underſtandings, they muſt needs excel other magiſtrates, who having been created only for a year, left their offices before they could underſtand the duties of them. This was evidenced by that tenderneſs, and ſincerity of heart, as well as the great purity of manners, obſerved in Tiberius; the clemency, juſtice, ſolid judgment, and frugality, of Caligula; the induſtry, courage, and ſobriety, of Claudius; the good-nature, and prudent government, of Nero; the temperance, vivacity, and diligence, of Vitellius; the liberality of Galba and Veſpaſian; together with the encouragement given by Domitian, Commodus, Heliogabalus, and many others, to all manner of virtues, and favours conferred upon thoſe that excelled in them. Our author, giving ſuch infallible proof of his integrity and underſtanding, by teaching us theſe things that would never have come into our heads, ought to be credited, tho' that which he propoſes ſeem to be moſt abſurd. But if we believe ſuch as lived in thoſe

times,

times, or thoſe who in later ages have peruſed their writings, we cannot but think the princes before-mentioned, and the greateſt part of thoſe, who poſſeſſed the ſame place, not only to have been void of all virtue, and to have ſuffered none to grow up under them, but in baſeneſs, ſottiſhneſs, and malice, to have been equal to the worſt of all beaſts. Whilſt one prince, polluted with luſt and blood, ſat in his grotto at Capreæ, ſurrounded with an infamous troop of aſtrologers; and others were governed by whores, bardaches, manumiſed ſlaves, and other villains; the empire was ruined through their negligence, incapacity, and wickedneſs; and the city that had flouriſhed in all manner of virtue, as much or more than any that has been yet known in the world, produced no more; the diſcipline was diſſolved that nouriſhed it; no man could hope to advance a public good, or obviate an evil, by his diligence and valour; and he who acquired reputation by either, could expect no other reward than a cruel death. If Germanicus and Corbulo, who were born when liberty was expiring, be brought for examples againſt the firſt part of my aſſertion, their ends will juſtify the latter; and no eminent Roman family is known to have brought forth a man that deſerved to be named in hiſtory ſince their time. This is as probable in reaſon, as true in fact. Men are valiant and induſtrious, when they fight for themſelves, and their country; they prove excellent in all the arts of war and peace, when they are bred up in virtuous exerciſes, and taught by their fathers and maſters to rejoice in the honours gained by them: they love their country, when the good of every particular man is comprehended in the public proſperity, and the ſucceſs of their atchievements is improved to the general advantage: they undertake hazards and labours for the government, when it is juſtly adminiſtered; when innocence is ſafe, and virtue honoured; when no man is diſtinguiſhed from the vulgar, but ſuch as have diſtinguiſhed themſelves by the bravery of their actions; when no honour is thought too great for thoſe who do it eminently, unleſs it be ſuch as cannot be communicated to others of equal merit: they do not ſpare their perſons, purſes, or friends, when the public powers are employed for the public benefit, and imprint the like affections in their children from their infancy. The diſcipline of obedience, in which the Romans were bred, taught them to command: and few were admitted to the magiſtracies of inferior rank, till they had given ſuch proof of their virtue as might deſerve the ſupreme. Cincinnatus, Camillus, Papirius, Mamercus, Fabius Maximus, were not made dictators, that they might learn the duties of the office; but becauſe they were judged to be of ſuch wiſdom, valour, integrity, and experience, that they might be ſafely truſted with the higheſt powers; and, whilſt the law reigned, not one was advanced to that honour, who did not fully anſwer what was expected from him. By this means the city was ſo repleniſhed with men fit for the greateſt employments, that even in its infancy, when three hundred and ſix of the Fabii, "quorum neminem," ſays Livy, "ducem ſperneret qui-"buſlibet temporibus ſenatus," were kill'ed in one day, the city did lament the loſs; but was not ſo weakened to give any advantage to their enemies: and when every one of thoſe who had been eminent

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before

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before the ſecond Punic war, Fabius Maximus only excepted, had periſhed in it, others aroſe in their places, who ſurpaſſed them in number, and were equal to them in virtue. The city was a perpetual ſpring of ſuch men as long as liberty laſted; but that was no ſooner overthrown, than virtue was torn up by the roots; the people became baſe and ſordid, the ſmall remains of the nobility ſlothful and effeminate, and their Italian aſſociates becoming like to them, the empire, whilſt it ſtood, was only ſuſtained by the ſtrength of foreigners.

The Grecian virtue had the ſame fate, and expired with liberty: inſtead of ſuch ſoldiers as in their time had no equals, and ſuch generals of armies and fleets, legiſlators and governors, as all ſucceeding ages have juſtly admired, they ſent out ſwarms of fidlers, jeſters, chariot-drivers, players, bawds, flatterers, miniſters of the moſt impure luſts; or idle, babling, hypocritical philoſophers, not much better than they. The emperors courts were always crouded with this vermin; and notwithſtanding the neceſſity our author imagines, that princes muſt needs underſtand matters of government better than magiſtrates annually choſen, they did for the moſt part prove ſo brutiſh as to give themſelves, and the world, to be governed by ſuch as theſe, and that without any great prejudice, ſince none could be found more ignorant, lewd, and baſe, than themſelves.

It is abſurd to impute this to the change of times; for time changes nothing; and nothing was changed in thoſe times, but the government, and that changed all things. This is not accidental, but according to the rules given to nature by God, impoſing upon all things a neceſſity of perpetually following their cauſes. Fruits are always of the ſame nature with the ſeeds and roots from which they come, and trees are known by the fruits they bear: as a man begets a man, and a beaſt a beaſt, that ſociety of men which conſtitutes a government upon the foundation of juſtice, virtue, and the common good, will always have men to promote thoſe ends; and that which intends the advancement of one man's deſires and vanity, will abound in thoſe that will foment them. All men follow that which ſeems advantageous to themſelves. Such as are bred under a good diſcipline, and ſee that all benefits, procured to their country by virtuous actions, redound to the honour and advantage of themſelves, their children, friends, and relations, contract, from their infancy, a love to the public, and look upon the common concernments as their own. When they have learnt to be virtuous, and ſee that virtue is in eſteem, they ſeek no other preferments than ſuch as may be obtained that way; and no country ever wanted great numbers of excellent men, where this method was eſtabliſhed. On the other ſide, when it is evident, that the beſt are deſpiſed, hated, or marked out for deſtruction; all things calculated to the humour or advantage of one man, who is often the worſt, or governed by the worſt; honours, riches, commands, and dignities, diſpoſed by his will, and his favour gained only by a moſt obſequious reſpect, or a pretended affection to his perſon, together with a ſervile obedience to his commands, all application to virtuous actions will ceaſe; and no man caring to render himſelf or his children worthy of great employments,

ments, ſuch as deſire to have them will, by little intrigues, corruption, ſcurrility, and flattery, endeavour to make way to them; by which means true merit in a ſhort time comes to be aboliſhed, as fell out in Rome as ſoon as the Cæſars began to reign. SECT. 28.

He who does not believe this, may ſee whether the like did not happen in all the other commonwealths of Italy and Greece; or if modern examples are thought to be of more value, let him examine whether the noblemen of Venice, who are born and bred in families that never knew a maſter, who act for themſelves, and have a part in all the good or evil that befals the commonwealth, and know, that if it be deſtroyed, they muſt periſh, or at leaſt, that all changes are to their prejudice, do neglect the public intereſts, as thinking, that the whole not depending upon any one of them, things will be well enough governed, tho' they attend only their private benefit. Let it be obſerved whether they do better underſtand the common concernments, than the great men of France or Spain, who never come to the knowledge of any thing, unleſs they happen to be favoured by the king, or his miniſters, and know themſelves never to be more miſerable than when their maſter is moſt proſperous. For my own part, I cannot think it neceſſary to alledge any other proof of this point, than that when Maximilian the emperor, Lewis the Twelfth of France, the fierce pope Julius the Second, and Ferdinand the ſubtile, powerful, and bold king of Spain, had, by the league of Cambray, combined againſt the Venetians, gained the battle of la Ghirad'adda, taken Alviano their general priſoner, deprived them of all their dominion on the Terra firma, and prepared to aſſault the city, it was, under God, ſolely preſerved by the vigour and wiſdom of their nobility, who, tho' no-way educated to war, unleſs by ſea, ſparing neither perſons nor purſes, did with admirable induſtry and courage firſt recover Padoua, and then many other cities, ſo as at the end of that terrible war they came off without any diminution of their territories: whereas Portugal having in our age revolted from the houſe of Auſtria, no one doubts, that it had been immediately reduced, if the great men of Spain had not been pleaſed with ſuch a leſſening of their maſter's power, and reſolved not to repair it by the recovery of that kingdom, or to deprive themſelves of an eaſy retreat when they ſhould be oppreſſed by him, or his favourites. The like thought was more plainly expreſſed by the Mareſchal de Baſſompierre, who ſeeing how hardly Rochel was preſſed by Lewis the Thirteenth, ſaid, * "he thought they ſhould be ſuch fools to take it:" but it is believed they would never have been ſuch fools; and the treachery only of our countrymen did enable the cardinal Richelieu to do it (as for his own glory, and the advancement of the popiſh cauſe, he really intended): and nothing is, to this day, more common in the mouth of their wiſeſt and beſt men, tho' papiſts, than the acknowledgment of their own folly in ſuffering that place to fall, the king having by that means gotten power to proceed againſt them at his pleaſure. The brave monſieur de Turenne is ſaid to have carried this to a greater

Paol. Paruta hiſt. Venet. Guicciard.

* Je croy qu'enfin nous ſerons aſſez fous pour prendre la Rochelle. Mem. de Baſſompierre.

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height in his laſt diſcourſe to the preſent king of France: "You "think, ſaid he, you have armies, but you have none; the one half "of the officers are the bawdy-houſe companions of monſieur de "xxx, or the creatures of his whore madam de xxx: the other half "may be men of experience, and fit for their employments; but "they are ſuch as would be pleaſed with nothing more than to ſee "you loſe two or three battles, that coming to ſtand in need of them, "you might cauſe them to be better uſed by your miniſters than of "late they have been." It may eaſily be imagined how men in ſuch ſentiments do ſerve their maſter; and nothing is more evident, than that the French in this age have had ſo great advantages, that they might have brought Europe, and perhaps Aſia, under their power, if the intereſt of the nation had been united to that of the government, and the ſtrength, vigour, and bravery, of the nobility employed that way. But ſince it has pleaſed God to ſuffer us to fall into a condition of being little able to help ourſelves, and that they are in ſo good terms with the Turk as not to attack him, it is our happineſs that they do not know their own ſtrength, or cannot, without ruin to themſelves, turn it to our prejudice.

I could give yet more pregnant teſtimonies of the difference between men fighting for their own intereſts in the offices to which they had been advanced by the votes of numerous aſſemblies, and ſuch as ſerve for pay, and get preferments by corruption or favour, if I were not unwilling to ſtir the ſpleen of ſome men by obliging them to reflect upon what has paſſed in our own age and country; to compare the juſtice of our tribunals within the time of our memory, and the integrity of thoſe who * for a while managed the public treaſure; the diſcipline, valour, and ſtrength, of our armies and fleets; the increaſe of our riches and trade; the ſucceſs of our wars in Scotland, Ireland, and at ſea, the glory and reputation not long ſince gained, with that condition into which we are of late fallen. But I think I ſhall offend no wiſe or good man, if I ſay, that as neither the Romans, nor Grecians, in the time of their liberty, ever performed any actions more glorious, than freeing the country from a civil war that had raged in every part, the conqueſt of two ſuch kingdoms as Scotland and Ireland, and cruſhing the formidable power of the Hollanders by ſea; nor ever produced more examples of valour, induſtry, integrity, and in all reſpects complete, diſintereſted, unmoveable, and incorruptible virtue, than were at that time ſeen in our nation: ſo neither of them, upon the change of their affairs, did exceed us in weakneſs, cowardice, baſeneſs, venality, lewdneſs, and all manner of corruption. We have reaſon therefore not only to believe, that all princes do not neceſſarily underſtand the affairs of their people, or provide better for them than thoſe who are otherwiſe choſen; but that, as there is nothing of greatneſs, power, riches, ſtrength, and happineſs, which we might not reaſonably have hoped for, if we had rightly improved the advantages we had, ſo there is nothing of ſhame and miſery which we may not juſtly fear, ſince we have neglected them.

* The parliament of 1641.

If any man think that this evil of advancing officers for perſonal reſpects, favour or corruption, is not of great extent, I deſire him to conſider,

conſider, that the officers of ſtate, courts of juſtice, church, armies, fleets, and corporations, are of ſuch number and power, as wholly to corrupt a nation, when they themſelves are corrupted; and will ever be corrupt, when they attain to their offices by corruption. The good management of all affairs, civil, military, and eccleſiaſtical, neceſſarily depends upon good order and diſcipline; and it is not in the power of common men to reform abuſes patronized by thoſe in authority, nor to prevent the miſchiefs thereupon enſuing; and, not having power to direct public actions to the public good, they muſt conſequently want the induſtry and affection that is required to bring them to a good iſſue. The Romans were eaſily beaten under the decemviri, tho' immediately before the erection, and after the extinction, of that power, none of their neighbours were able to reſiſt them. The Goths, who with much glory had reigned in Spain for about three hundred years, had neither ſtrength nor courage under their lewd and odious king Rodrigo, and were in one day ſubdued with little loſs of blood by the Saracens, and could not in leſs than eight hundred years free their country from them. That brave nation, having of late fallen under as baſe a conduct, has now as little heart or power to defend itſelf: court-paraſites have rendered valour ridiculous; and they who have ever ſhewed themſelves as much inclined to arms as any people of the world, do now abhor them, and are ſent to the wars by force, laid in carts, and bound like calves brought to the ſhambles, and left to ſtarve in Flanders, as ſoon as they arrive. It may eaſily be judged what ſervice can be expected from ſuch men, tho' they ſhould happen to be well commanded: but the great officers, by the corruption of the court, think only of enriching themſelves; and, increaſing the miſery of the ſoldiers by their frauds, both become equally uſeleſs to the ſtate. SECT. 28.

Notwithſtanding the ſeeming proſperity of France, matters there are not much better managed. The warlike temper of that people is ſo worn out by the frauds and cruelties of corrupt officers, that few men liſt themſelves willingly to be ſoldiers; and, when they are engaged or forced, they are ſo little able to endure the miſeries to which they are expoſed, that they daily run away from their colours, tho' they know not whither to go, and expect no mercy, if they are taken. The king has in vain attempted to correct this humour by the ſeverity of martial law: but mens minds will not be forced; and tho' his troops are perfectly well armed, clothed, and exerciſed, they have given many teſtimonies of little worth. When the prince of Condé had by his own valour, and the ſtrength of the king's guards, broken the firſt line of the prince of Orange's army at the battle of Seneff, and put the reſt into diſorder, he could not make the ſecond and third line of his own army to advance, and reinforce the firſt, by which means, he loſt all the fair hopes he had conceived of an intire victory. Not long after, the mareſchal de Crequi was abandoned by his whole army near Trier, who ran away, hardly ſtriking a ſtroke, and left him with ſixteen horſe to ſhift for himſelf. When monſieur de Turenne, by the excellency of his conduct and valour, had gained ſuch a reputation amongſt the ſoldiers, that they thought themſelves ſecure under him, he did not ſuffer ſuch diſgraces; but he being

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being killed, they returned to the uſual temper of forced and ill-uſed ſoldiers; half the army was loſt in a retreat, little differing from a flight; and the reſt, as they themſelves confeſs, ſaved by the bravery of two Engliſh regiments. The prince of Condé was ſoon after ſent to command; but he could not, with all his courage, ſkill, and reputation, raiſe their fallen ſpirits, nor preſerve his army any other way, than by lodging them in a camp near Schleſtadt, ſo fortified by art and nature, that it could not be forced.

To theſe we may add ſome examples of our own. In our late war, the Scots foot, whether friends or enemies, were much inferior to thoſe of the parliament, and their horſe eſteemed as nothing. Yet in the year 1639. and 1640. the king's army, tho' very numerous, excellently armed and mounted, and, in appearance, able to conquer many ſuch kingdoms as Scotland, being under the conduct of courtiers, and affected as men uſually are towards thoſe that uſe them ill, and ſeek to deſtroy them, they could never reſiſt a wretched army commanded by Leven; but were ſhamefully beaten at Newborn, and left the northern counties to be ravaged by them.

When Van Tromp ſet upon Blake in Foleſton-Bay, the Parliament had not above thirteen ſhips againſt threeſcore, and not a man that had ever ſeen any other fight at ſea, than between a merchant-ſhip and a pirate, to oppoſe the beſt captain in the world, attended with many others in valour and experience not much inferior to him. Many other difficulties were obſerved in the unſettled ſtate: few ſhips, want of money, ſeveral factions, and ſome, who to advance particular intereſts betrayed the public. But ſuch was the power of wiſdom and integrity in thoſe that ſat at the helm, and their diligence in chuſing men only for their merit was bleſſed with ſuch ſucceſs, that in two years our fleets grew to be as famous as our land-armies; the reputation and power of our nation roſe to a greater height, than when we poſſeſſed the better half of France, and the kings of France and Scotland were our priſoners. All the ſtates, kings, and potentates of Europe, moſt reſpectfully, not to ſay ſubmiſſively, ſought our friendſhip; and Rome was more afraid of Blake and his fleet, than they had been of the great king of Sweden, when he was ready to invade Italy with a hundred thouſand men. This was the work of thoſe, who, if our author ſays true, "thought "baſely of the public concernments;" and, believing things muſt be well enough managed by others, minded only their private affairs. Theſe were the effects of the negligence and ignorance of thoſe, who, being ſuddenly advanced to offices, were removed before they underſtood the duties of them. Theſe diſeaſes, which proceed from popular corruption and irregularity, were certainly cured by the reſtitution of that integrity, good order and ſtability, that accompany divine monarchy. The juſtice of the war made againſt Holland in the year 1665. the probity of the gentleman, who, without partiality or bribery, choſe the moſt part of the officers that carried it on; the wiſdom, diligence, and valour, manifeſted in the conduct, and the glory with which it was ended, juſtifies all that our author can ſay in its commendation. If any doubt remains, the ſubtilty of making the king of France deſire, that the Netherlands might

might be an acceſſion to his crown; the ingenious ways taken by us to facilitate the conqueſt of them; the induſtry of our embaſſadors, in diverting the Spaniards from entering into the war till it was too late to recover the loſſes ſuſtained; the honourable deſign upon the Smyrna fleet, and our frankneſs in taking the quarrel upon ourſelves; together with the important figure we now make in Europe, may wholly remove it; and in confirmation of our author's doctrine, ſhew, that princes do better perform the offices that require wiſdom, induſtry, and valour, than annual magiſtrates; and do more ſeldom err in the choice of officers, than ſenates and popular aſſemblies. SECT. 29.

SECT. XXIX.

There is no aſſurance that the diſtempers of a ſtate ſhall be cured by the wiſdom of a prince.

"BUT," ſays our author, "the virtue and wiſdom of a prince "ſupplies all. Tho' he were of a duller underſtanding, by uſe "and experience he muſt needs excel all:" Nature, age, or ſex, are, as it ſeems, nothing to the caſe. A child as ſoon as he comes to be a king, has experience; the head of a fool is filled with wiſdom, as ſoon as a crown is ſet upon it, and the moſt vitious do in a moment become virtuous. This is more ſtrange than that an aſs being trained to a courſe, ſhould outrun the beſt Arabian horſe; or a hare bred up in an army, become more ſtrong and fierce than a lion; for fortune does not only ſupply all natural defects in princes, and correct their vices, but gives them the benefit of uſe and experience, when they have none. Some reaſons and examples might have been expected to prove this extraordinary propoſition: but according to his laudable cuſtom, he is pleaſed to trouble himſelf with neither; and thinks, that the impudence of an aſſertion is ſufficient to make that to paſs, which is repugnant to experience and common ſenſe, as may appear by the following diſcourſe.

I will not inſiſt upon terms; for tho' "duller underſtanding" ſignifies nothing, inaſmuch as no underſtanding is dull, and a man is ſaid to be dull only becauſe he wants it; but preſuming he means little underſtanding, I ſhall ſo take it. This defect may poſſibly be repaired in time; but to conclude it muſt be ſo, is abſurd, for no one has this uſe and experience when he begins to reign. At that time many errors may be committed to the ruin of himſelf or people, and many have periſhed even in their beginning. Edward the Fifth and Sixth of England, Francis the Second of France, and divers other kings, have died in the beginning of their youth: Charles the Ninth lived only to add the furies of youth to the follies of his childhood; and our Henry the Second, Edward the Second, Richard the Second, and Henry the Sixth, ſeem to have been little wiſer in the laſt, than in the firſt year of their reign or life. The preſent kings of Spain,

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France, and Sweden, came to the crowns they wear before the Sixth year of their age; and if they did then ſurpaſs all annual magiſtrates in wiſdom and valour, it was by a peculiar gift of God, which, for any thing we know, is not given to every king, and it was not uſe and experience that made them to excel. If it be pretended, that this experience, with the wiſdom that it gives, comes in time, and by degrees; I may modeſtly aſk, what time is required to render a prince excellent in wiſdom who is a child or a fool? And who will give ſecurity that he ſhall live to that time, or that the kingdom ſhall not be ruined in the time of his folly? I may alſo doubt how our author, who concludes, that every king, in time, muſt needs become excellent in wiſdom, can be reconciled to Solomon, who in preferring a wiſe child before an old and fooliſh king that will not be adviſed, ſhews, that an old king may be a fool, and he that will not be adviſed is one. Some are ſo naturally brutiſh and ſtupid, that neither education nor time will mend them. It is probable that Solomon took what care he could to inſtruct his only ſon Rehoboam; but he was certainly a fool at forty years of age, and we have no reaſon to believe that he deſerved a better name. He ſeems to have been the very fool his father intended, who, tho' brayed in a mortar, would never leave his folly: he would not be adviſed, tho' the hand of God was againſt him; ten tribes revolted from him, and the city and temple was pillaged by the Egyptians. Neither experience nor afflictions could mend him, and he is called to this day by his own countrymen "ſtultitia gentium." I might offend tender ears, if I ſhould alledge all the examples of princes mentioned in hiſtory, or known in our own age, who have lived and died as fooliſh and incorrigible as he: but no man, I preſume, will be ſcandalized, that the ten laſt kings of Meroveus's race, whom the French hiſtorians call "les roys faineants," were ſo far from excelling other men in underſtanding, that they lived and died more like to beaſts than men. Nay, the wiſdom and valour of Charles Martel expired in his grandchild Charles the Great; and his poſterity grew to be ſo ſottiſh, that the French nation muſt have periſhed under their conduct, if the nobility and people had not rejected them, and placed the crown upon a more deſerving head.

This is as much as is neceſſary to be ſaid to the general propoſition; for it is falſe, if it be not always true; and no concluſion can be made upon it. But I need not be ſo ſtrict with our author, there being no one ſound part in his aſſertion. Many children come to be kings when they have no experience, and die, or are depoſed before they can gain any. Many are by nature ſo ſottiſh that they can learn nothing: others falling under the power of women, or corrupt favourites and miniſters, are perſuaded and ſeduced from the good ways to which their own natural underſtanding or experience might lead them; the evils drawn upon themſelves, or their ſubjects, by the errors committed in the time of their ignorance, are often grievous, and ſometimes irreparable, tho' they ſhould be made wiſe by time and experience. A perſon of royal birth, and excellent wit, was ſo ſenſible of this as to tell me, "that the condition of kings "was moſt miſerable, inaſmuch as they never heard truth till

"they

" they were ruined by lyes; and then every one was ready to SECT. 29.
" tell it to them, not by way of advice, but reproach, and ra-
" ther to vent their own ſpite, than to ſeek a remedy to the evils
" brought upon them, and the people." Others attain to crowns when they are of full age, and have experience as men, tho' none as kings; and therefore are apt to commit as great miſtakes as children: and, upon the whole matter, all the hiſtories of the world ſhew, that, inſtead of this profound judgment, and incomparable wiſdom, which our author generally attributes to all kings, there is no ſort of men that do more frequently and intirely want it.

But tho' kings were always wiſe by nature, or made to be ſo by experience, it would be of little advantage to nations under them, unleſs their wiſdom were pure, perfect, and accompanied with clemency, magnanimity, juſtice, valour, and piety. Our author durſt hardly have ſaid, that theſe virtues or graces are gained by experience, or annexed by God to any rank of men or families. He gives them where he pleaſes without diſtinction. We ſometimes ſee thoſe upon thrones, who by God and nature ſeem to have been deſigned for the moſt ſordid offices; and thoſe have been known to paſs their lives in meanneſs and poverty, who had all the qualities that could be deſired in princes. There is likewiſe a kind of ability to diſpatch ſome ſort of affairs, that princes who continue long in a throne may to a degree acquire or increaſe. Some men take this for wiſdom; but K. James more rightly called it by the name of " king-
" craft;" and as it principally conſiſts in diſſimulation, and the arts of working upon mens paſſions, vanities, private intereſts, or vices, to make them for the moſt part inſtruments of miſchief, it has the advancement or ſecurity of their own perſons for its object; is frequently exerciſed with all the exceſſes of pride, avarice, treachery, and cruelty; and no men have been ever found more notoriouſly to deflect from all that deſerves praiſe in a prince, or a gentleman, than thoſe that have moſt excelled in it. Pharaſmenes king of Iberia is recorded by Tacitus to have been well verſed in this ſcience. Tacit. an. l. xi. xii.
His brother Mithridates king of Armenia had married his daughter, and given his own daughter to Rhadamiſtus ſon of Pharaſmenes. He had ſome conteſts with Mithridates; but, by the help of theſe mutual alliances, nearneſs of blood, the diligence of Rhadamiſtus, and an oath, ſtrengthened with all the ceremonies that amongſt thoſe nations were eſteemed moſt ſacred, not to uſe arms or poiſon againſt him, all was compoſed; and, by this means getting him into his power, he ſtifled him with a great weight of cloaths thrown upon him, killed his children, and not long after his own ſon Rhadamiſtus alſo. Louis the Eleventh of France, James the Third of Scotland, Henry the Seventh of England, were great maſters of theſe arts; and thoſe who are acquainted with hiſtory, will eaſily judge, how happy nations would be, if all kings did in time certainly learn them.

Our author, as a farther teſtimony of his judgment, having ſaid that kings muſt needs excel others in underſtanding, and grounded his doctrine upon their profound wiſdom, imputes to them thoſe " baſe
" and panic fears," which are inconſiſtent with it, or any royal virtue; and to carry his point higher, tells us, " There is no tyrant ſo barbarouſly
" wicked,

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" wicked, but his own reaſon and ſenſe will tell him, that tho' he be a " God, yet he muſt die like a man; and that there is not the meaneſt of " his ſubjects, but may find a means to revenge himſelf of the injuries " offered him;" and from thence concludes, that " there is no ſuch ty- " ranny as that of a multitude, which is ſubject to no ſuch fears." But if there be ſuch a thing in the world, as a barbarous and wicked tyrant, he is ſomething different from a king, or the ſame; and his wiſdom is conſiſtent or inconſiſtent with barbarity, wickedneſs, and tyranny. If there be no difference, the praiſes he gives, and the rights he aſcribes, to the one, belong alſo to the other: and the excellency of wiſdom may conſiſt with barbarity, wickedneſs, tyranny, and the panic fears that accompany them; which hitherto have been thought to comprehend the utmoſt exceſſes of folly and madneſs: and I know no better teſtimony of the truth of that opinion, than that wiſdom always diſtinguiſhing good from evil, and being ſeen only in the rectitude of that diſtinction, in following and adhering to the good, rejecting that which is evil, preferring ſafety before danger, happineſs before miſery, and in knowing rightly how to uſe the means of attaining or preſerving the one, and preventing or avoiding the other, there cannot be a more extravagant deviation from reaſon, than for a man who in a private condition might live ſafely and happily, to invade a principality; or if he be a prince, who by governing with juſtice and clemency might obtain the inward ſatisfaction of his own mind, hope for the bleſſing of God upon his juſt and virtuous actions, acquire the love and praiſes of men, and live in ſafety and happineſs amongſt his ſafe and happy ſubjects, to fall into that barbarity, wickedneſs, and tyranny, which brings upon him the diſpleaſure of God, and deteſtation of men, and which is always attended with thoſe baſe and panic fears, that comprehend all that is ſhameful and miſerable. This being perceived by Machiavel, he could not think, that any man in his ſenſes would not rather be a Scipio than a Cæſar; or, if he came to be a prince, would not rather chuſe to imitate Ageſilaus, Timoleon, or Dion, than Nabis, Phalaris, or Dionyſius; and imputes the contrary choice to madneſs. Nevertheleſs, it is too well known, that many of our author's profound wiſe men in the depth of their judgment, made perfect by uſe and experience, have fallen into it.

Diſcorſ. ſopra T. Liv. l. i. c. 10.

If there be a difference between this barbarous wicked tyrant, and a king, we are to examine who is the tyrant, and who the king; for the name conferred or aſſumed cannot make a king, unleſs he be one. He who is not a king, can have no title to the rights belonging to him who is truly a king: ſo that a people who find themſelves wickedly and barbarouſly oppreſſed by a tyrant, may deſtroy him, and his tyranny, without giving offence to any king.

But it is ſtrange that Filmer ſhould ſpeak of the barbarity and wickedneſs of a tyrant, who looks upon the world to be the patrimony of one man; and, for the foundation of his doctrine, aſſerts ſuch a power in every one that makes himſelf maſter of any part, as cannot be limited by any law. His title is not to be queſtioned; uſurpation and violence confer an inconteſtable right: the exerciſe of his power is no more to be diſputed than the acquiſition: his will is a law to his ſubjects: and no law can be impoſed by them upon his conduct.

conduct. For if theſe things be true, I know not how any man could ever be called a tyrant, that name having never been given to any, unleſs for uſurping a power that did not belong to him, or an unjuſt exerciſe of that which had been conferred upon him, and violating the laws which ought to be a rule to him. It is alſo hard to imagine how any man can be called barbarous and wicked, if he be obliged by no law but that of his own pleaſure; for we have no other notion of wrong, than that it is a breach of the law which determines what is right. If the lives and goods of ſubjects depend upon the will of the prince, and he in his profound wiſdom preſerve them only to be beneficial to himſelf, they can have no other right than what he gives, and without injuſtice may retain when he thinks fit: if there be no wrong, there can be no juſt revenge; and he that pretends to ſeek it, is not a free man vindicating his right, but a perverſe ſlave riſing up againſt his maſter. But if there be ſuch a thing as a barbarous and wicked tyrant, there muſt be a rule relating to the acquiſition and exerciſe of the power, by which he may be diſtinguiſhed from a juſt king; and a law ſuperior to his will, by the violation of which he becomes barbarous and wicked. SECT. 29.

Tho' our author ſo far forgets himſelf, to confeſs this to be true, he ſeeks to deſtroy the fruits of it by ſuch flattery as comprehends all that is moſt deteſtable in profaneneſs and blaſphemy, and gives the name of gods to the moſt execrable of men. He may by ſuch language deſerve the name of Heylin's diſciple; but will find few among the heathens ſo baſely ſervile, or ſo boldly impious. Tho' Claudius Cæſar was a drunken ſot, and tranſported with the extravagance of his fortune, he deteſted the impudence of his predeceſſor Caligula (who affected that title), and in his reſcript to the procurator of Judea, gives it no better name than "turpem Caii inſaniam." For this reaſon it was rejected by all his pagan ſucceſſors, who were not as furiouſly wicked as he: yet Filmer has thought fit to renew it, for the benefit of mankind, and the glory of the chriſtian religion.

I know not whether theſe extreme and barbarous errors of our author are to be imputed to wickedneſs or madneſs; or whether, to ſave the pains of a diſtinction, they may not rightly be ſaid to be the ſame thing; but nothing leſs than the exceſs of both could induce him to attribute any thing of good to the fears of a tyrant, ſince they are the chief cauſes of all the miſchiefs he does. Tertullian ſays they are "metu quam furore ſæviores;" and Tacitus, ſpeaking of a moſt wicked † king, ſays, that he did "ſævitiam ignaviæ obtendere *;" and we do not more certainly find, that cowards are the cruelleſt of men, than that wickedneſs makes them cowards; that every man's fears bear a proportion with his guilt, and with the number, virtue, and ſtrength, of thoſe he has offended. He who uſurps a power over all, or abuſes a truſt repoſed in him by all, in the higheſt meaſure offends all; he fears and hates thoſe he has offended, and to ſecure himſelf, aggravates the former injuries: when theſe are public, they beget a univerſal hatred, and every man deſires to extinguiſh a

† Gotarzes. Tac. ann. l. xii. c. 10.

* The words in Tacitus are ſomewhat different, "dum ſocors domi, bellis infauſtus, "IGNAVIAM SÆVITIA TEGAT;" which give quite another ſenſe, and very foreign to the point.

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miſchief that threatens ruin to all. This will always be terrible to one that knows he has deſerved it; and when thoſe he dreads are the body of the people, nothing but a public deſtruction can ſatisfy his rage, and appeaſe his fears.

I wiſh I could agree with Filmer, in exempting multitudes from fears; for they having ſeldom committed any injuſtice, unleſs through fear, would, as far as human fragility permits, be free from it. Tho' the Attic oſtraciſm was not an extreme puniſhment, I know nothing uſually practiſed in any commonwealth, that did ſo much favour of injuſtice: but it proceeded ſolely from a fear that one man, tho' in appearance virtuous, when he came to be raiſed too much above his fellow-citizens, might be tempted to invade the public liberty. We do not find, that the Athenians, or any other free cities, ever injured any man, unleſs through ſuch a jealouſy, or the perjury of witneſſes, by which the beſt tribunals that ever were, or can be eſtabliſhed in the world, may be miſled; and no injuſtice could be apprehended from any, if they did not fall into ſuch fears.

But tho' multitudes may have fears as well as tyrants, the cauſes and effects of them are very different. A people, in relation to domeſtic affairs, can deſire nothing but liberty, and neither hate or fear any but ſuch as do, or would, as they ſuſpect, deprive them of that happineſs: their endeavours to ſecure that ſeldom hurt any except ſuch as invade their rights; and if they err, the miſtake is for the moſt part diſcovered before it produce any miſchief; and the greateſt that ever came that way, was the death of one or a few men. Their hatred and deſire of revenge can go no farther than the ſenſe of the injury received or feared, and is extinguiſhed by the death or baniſhment of the perſons; as may be gathered from the examples of the Tarquins, decemviri, Caſſius, Melius, and Manlius Capitolinus. He therefore that would know whether the hatred and fear of a tyrant, or of a people, produces the greater miſchiefs, needs only to conſider, whether it be better, that the tyrant deſtroy the people, or that the people deſtroy the tyrant; or at the worſt, whether one that is ſuſpected of affecting the tyranny ſhould periſh, or a whole people, amongſt whom very many are certainly innocent; and experience ſhews, that ſuch are always firſt ſought out to be deſtroyed for being ſo: popular furies or fears, how irregular or unjuſt ſoever they may be, can extend no farther; general calamities can only be brought upon a people by thoſe who are enemies to the whole body, which can never be the multitude, for they are that body. In all other reſpects, the fears that render a tyrant cruel, render a people gentle and cautious; for every ſingle man knowing himſelf to be of little power, not only fears to do injuſtice becauſe it may be revenged upon his perſon, by him, or his friends, kindred, and relations, that ſuffers it; but becauſe it tends to the overthrow of the government, which comprehends all public and private concernments, and which every man knows cannot ſubſiſt unleſs it be ſo eaſy and gentle, as to be pleaſing to thoſe who are the beſt, and have the greateſt power: and as the public conſiderations divert them from doing thoſe injuries that may bring immediate prejudice to the public, ſo there are ſtrict laws to reſtrain all ſuch as would do private injuries.

If

If neither the people nor the magiſtrates of Venice, Switzerland, and Holland, commit ſuch extravagancies as are uſual in other places, it does not perhaps proceed from the temper of thoſe nations different from others, but from a knowledge, that whoſoever offers an injury to a private perſon, or attempts a public miſchief, is expoſed to the impartial and inexorable power of the law; whereas the chief work of an abſolute monarch is to place himſelf above the law, and thereby rendering himſelf the author of all the evils that the people ſuffer, it is abſurd to expect that he ſhould remove them. SECT. 30.

SECT. XXX.

A monarchy cannot be well regulated, unleſs the powers of the monarch are limited by law.

OUR author's next ſtep is not only to reject popular governments, but all ſuch monarchies as are not abſolute: "for if the king," ſays he, "admits the people to be his companions, he leaves to be a "king." This is the language of French lackeys, valet-de-chambre's, taylors, and others like them in wiſdom, learning, and policy, who when they fly to England for fear of a well-deſerved gally, gibbet, or wheel, are ready to ſay, "Il faut que le roit ſoit abſolu, autrement "il n'eſt point roy." And finding no better men to agree with Filmer in this ſublime philoſophy, I may be pardoned if I do not follow them, till I am convinced in theſe enſuing points.

1. It ſeems abſurd to ſpeak of kings admitting the nobility or people to part of the government: for tho' there may be, and are, nations without kings, yet no man can conceive a king without a people. Theſe muſt neceſſarily have all the power originally in themſelves; and tho' kings may and often have a power of granting honours, immunities, and privileges, to private men or corporations, he does it only out of the public ſtock, which he is entruſted to diſtribute; but can give nothing to the people, who give to him all that he can rightly have.

2. It is ſtrange, that he who frequently cites Ariſtotle and Plato, ſhould unluckily acknowledge ſuch only to be kings as they call tyrants, and deny the name of king to thoſe, who, in their opinion, are the only kings.

3. I cannot underſtand why the Scripture ſhould call thoſe kings whoſe powers were limited, if they only are kings who are abſolute; or why Moſes did appoint, that the power of kings in Iſrael ſhould be limited (if they reſolved to have them), if that limitation deſtroyed the being of a king. Deut. xvii.

4. And laſtly, how he knows, that in the kingdoms which have a ſhew of popularity, the power is wholly in the king.

The firſt point was proved when we examined the beginning of monarchies, and found it impoſſible that there could be any thing of juſtice in them, unleſs they were eſtabliſhed by the common conſent of thoſe who were to live under them; or that they could make any ſuch eſtabliſhment, unleſs the right and power were in them.

Secondly,

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Secondly, Neither Plato nor Ariſtotle acknowledge either reaſon or juſtice in the power of a monarch, unleſs he has more of the virtues conducing to the good of the civil ſociety than all thoſe who compoſe it; and employ them for the public advantage, and not to his own pleaſure and profit, as being ſet up by thoſe who ſeek their own good, for no other reaſon than that he ſhould procure it. To this end a law is ſet as a rule to him, and the beſt men, that is ſuch as are moſt like to himſelf, made to be his affiſtants, becauſe, ſay they, "lex eſt mens ſine affectu, & quaſi "deus;" whereas the beſt of men have their affections and paſſions, and are ſubject to be miſled by them: which ſhews, that as the monarch is not for himſelf, nor by himſelf, he does not give, but receive power, nor admit others to the participation of it, but is by them admitted to what he has. Whereupon they conclude, that to prefer the abſolute power of a man, as in thoſe governments which they call "barbarorum regna," before the regular government of kings juſtly exerciſing a power inſtituted by law, and directed to the public good, is to chuſe rather to be ſubject to the luſt of a beaſt, than to be governed by a God. And becauſe ſuch a choice can only be made by a beaſt, I leave our author to find a deſcription of himſelf in their books, which he ſo often cites.

Plat. de leg. Ariſt. polit.

But if Ariſtotle deſerve credit, the princes who reign for themſelves and not for the people, preferring their own pleaſure or profit before the public, become tyrants; which, in his language, is, enemies to God and man. On this account Boccalini introduces the princes of Europe raiſing a mutiny againſt him in Parnaſſus, for giving ſuch definitions of tyrants as they ſaid comprehended them all; and forcing the poor philoſopher to declare by a new definition, that * "tyrants "were certain men of antient times, whoſe race is now extinguiſhed." But with all his wit and learning he could not give a reaſon why thoſe who do the ſame things that rendered the antient tyrants deteſtable, ſhould not be ſo alſo in our days.

In the third place, the Scriptures declare the neceſſity of ſetting bounds to thoſe who are placed in the higheſt dignities. Moſes ſeems to have had as great abilities as any man that ever lived in the world; but he alone was not able to bear the weight of the government, and therefore God appointed ſeventy choſen men to be his aſſiſtants. This was a perpetual law to Iſrael; and as no king was to have more power than Moſes, or more abilities to perform the duties of his office, none could be exempted from the neceſſity of wanting the like helps. Our author therefore muſt confeſs, that they are kings who have them, or that kingly government is contrary to the Scriptures. When God by Moſes gave liberty to his people to make a king, he did it under theſe conditions. "He muſt be one of their brethren: they muſt chuſe "him: he muſt not multiply gold, ſilver, wives, or horſes: he muſt "not lift up his heart above his brethren." And Joſephus paraphraſing upon the place, ſays, "He ſhall do nothing without the advice of "the ſanhedrin; or if he do, they ſhall oppoſe him." This agrees with

Deut. xvii.

Joſ. ant. Jud.

* Che I tiranni furono certi huomini del tempo antico de i quali hoggidi ſi e perduta la razza. Boccal. Rag. de Parn.

the

confeſſion of Zedekiah to the princes (which was the ſanhedrin), "The king can do nothing without you;" and ſeems to have been in purſuance of the law of the kingdom, which was written in a book, and laid up before the Lord; and could not but agree with that of Moſes, unleſs they ſpake by different ſpirits, or that the ſpirit by which they did ſpeak was ſubject to error or change: and the whole ſeries of God's law ſhews, that the pride, magnificence, pomp, and glory, uſurped by their kings, was utterly contrary to the will of God, They did lift up their hearts above their brethren, which was forbidden by the law. All the kings of Iſrael, and moſt of the kings of Judah, utterly rejected it, and every one of them did very much depart from the obſervation of it. I will not deny, that the people in their inſtitution of a king intended they ſhould do ſo: they had done it themſelves, and would have a king that might uphold them in their diſobedience; they were addicted to the idolatry of their accurſed neighbours, and deſired that government by which it was maintained amongſt them. In doing this they did not reject Samuel; but they rejected God, that he ſhould not reign over them. They might perhaps believe, that, unleſs their king were ſuch as the law did not permit, he would not perform what they intended; or that the name of king did not belong to him, unleſs he had a power that the law denied. But ſince God and his prophets give the name of king to the chief magiſtrate, endowed with a power that was reſtrained within very narrow limits, whom they might without offence ſet up, we alſo may ſafely give the ſame to thoſe of the ſame nature, whether it pleaſe Filmer or not,

SECT. 30.

Jer. xxxviii.

4. The practice of moſt nations, and (I may truly ſay) of all that deſerve imitation, has been as directly contrary to the abſolute power of one man, as their conſtitutions: or if the original of many governments lie hid in the impenetrable darkneſs of antiquity, their progreſs may ſerve to ſhew the intention of the founders. Ariſtotle ſeems to think, that the firſt monarchs, having been choſen for their virtue, were little reſtrained in the exerciſe of their power; but that they, or their children, falling into corruption and pride, grew odious; and that nations did on that account either aboliſh their authority, or create ſenates, and other magiſtrates, who, having part of the power, might keep them in order. The Spartan kings were certainly of this nature; and the Perſian, till they conquered Babylon. Nay, I may ſafely ſay, that neither the kings which the frantic people ſet up in oppoſition to the law of God, nor thoſe of the bordering nations, whoſe example they choſe to follow, had that abſolute power which our author attributes to all kings as inſeperable from the name. Achiſh the Philiſtine loved and admired David; he looked upon him as an angel of God; and promiſed that he ſhould be the keeper of his head for ever; but when the princes ſuſpected him, and ſaid "He ſhall not go down with us to battle," he was obliged to diſmiſs him. This was not the language of ſlaves, but of thoſe who had a great part in the government; and the king's ſubmiſſion to their will ſhews, that he was more like to the kings of Sparta, than to an abſolute monarch, who does whatever pleaſes him. I know not whether the Spartans

1 Sam. xxix.

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were deſcended from the Hebrews, as ſome think; but their kings were under a regulation much like that of the xvii of Deut. tho' they had two: their ſenate of twenty-eight, and the ephori, had a power like to that of the ſandedrin; and by them kings were condemned to fines, impriſonment, baniſhment, and death, as appears by the examples of Pauſanias, Clonymus, Leonidas, Agis, and others. The Hebrew diſcipline was the ſame; "Reges Davidicæ ſtirpis," ſays Maimonides, "judicabant & judicabantur." They gave teſtimony in judgment when they were called, and teſtimony was given againſt them: whereas the kings of Iſrael, as the ſame author ſays, were "ſuperbi, cor-" de elati, & ſpretores legis, nec judicabant, nec judicabantur;" proud, inſolent, and contemners of the law, who would neither judge, nor ſubmit to judgment as the law commanded. The fruits they gathered were ſuitable to the ſeed they had ſown: their crimes were not left unpuniſhed: they who deſpiſed the law, were deſtroyed without law; and when no ordinary courſe could be taken againſt them for their exceſſes, they were overthrown by force, and the crown within the ſpace of a few years tranſported into nine ſeveral families, with the utter extirpation of thoſe that had poſſeſſed it. On the other hand, there never was any ſedition againſt the Spartan kings; and after the moderate diſcipline, according to which they lived, was eſtabliſhed, none of them died by the hands of their ſubjects, except only two, who were put to death in a way of juſtice: the kingdom continued in the ſame races, till Cleomenes was defeated by Antigonus, and the government overthrown by the inſolence of the Macedonians. This gave occaſion to thoſe beſtial tyrants Nabis and Machanidas to ſet up ſuch a government as our author recommends to the world, which immediately brought deſtruction upon themſelves, and the whole city. The Germans, who pretended to be deſcended from the Spartans, had the like government. Their princes, according to their merit had the credit of perſuading, not the power of commanding; and the queſtion was not, what part of the government their kings would allow to the nobility and people, but what they would give to their kings; and it is not much material to our preſent diſpute, whether they learnt this from ſome obſcure knowledge of the law which God gave to his people, or whether, led by the light of reaſon, which is alſo from God, they diſcovered what was altogether conformable to that law. Whoever underſtands the affairs of Germany, knows that the preſent emperors, notwithſtanding their haughty title, have a power limited as in the days of Tacitus. If they are good and wiſe, they may perſuade; but they can command no farther than the law allows. They do not admit the princes, noblemen, and cities, to the power which they all exerciſe in their general diets, and each of them within their own precincts; but they exerciſe that which has been by public conſent beſtowed upon them. All the kingdoms peopled from the north obſerved the ſame rules. In all of them the powers were divided between the kings, the nobility, clergy, and commons; and by the decrees of councils, diets, parliaments, cortez, and aſſemblies of eſtates, authority and liberty were ſo balanced, that ſuch princes as aſſumed to themſelves more than the law did permit, were ſeverely puniſhed; and thoſe who

More Nevochim.

Ibid.

Tacit. de morib. Germ.

who did by force or fraud invade thrones, were by force thrown down from them. SECT. 30.

This was equally beneficial to kings and people. The powers, as Theopompus king of Sparta ſaid, were moſt ſafe, when they were leaſt envied and hated. Lewis the Eleventh of France was one of the firſt that broke this golden chain; and, by more ſubtil arts than had been formerly known, ſubverted the laws, by which the fury of thoſe kings had been reſtrained, and taught others to do the like; tho' all of them have not ſo well ſaved themſelves from puniſhment. James the Third of Scotland was one of his moſt apt ſcholars; and * Buchanan, in his life, ſays, " that he was precipitated into all manner " of infamy by men of the moſt abject condition; that the corruption " of thoſe times, and the ill example of neighbouring princes, were " conſiderable motives to pervert him: for Edward the Fourth of " England, Charles of Burgundy, Lewis the Eleventh of France, and " John the Second of Portugal, had already laid the foundations of " tyranny in thoſe countries; and Richard the Third was then moſt " cruelly exerciſing the ſame in the kingdom of England."

This could not have been, if all the power had always been in kings, and neither the people, nor the nobility, had ever had any: for no man can be ſaid to gain that which he, and his predeceſſors, always poſſeſſed, or to take from others that which they never had; nor to ſet up any ſort of government, if it had been always the ſame. But the foreſaid Lewis the Eleventh did aſſume to himſelf a power above that of his predeceſſors; and Philip de Commines ſhews the ways by which he acquired it, with the miſerable effects of his acquiſition, both to himſelf and to his people: modern authors obſerve, that the change was made by him; and, for that reaſon, he is ſaid by Mezeray, and others, " to have brought thoſe kings out of † guardianſhip:" they were not therefore ſo, till he did emancipate them. Nevertheleſs, this emancipation had no reſemblance to the unlimited power, of which our author dreams. The general aſſemblies of eſtates were often held long after his death, and continued in the exerciſe of the ſovereign power of the nation. Davila, ſpeaking of the general aſſembly held at Orleans in the time of Francis the Second, aſſerts the whole power of the nation to have been in them. Monſieur de Thou ſays the ſame thing, and adds, that the king dying ſuddenly, the aſſembly continued, even at the deſire of the council, in the exerciſe of that power, till they had ſettled the regency, and other affairs of the higheſt importance, according to their own judgment. Hottoman a lawyer of that time and nation, famous for his learning, judgment, and integrity, having diligently examined the antient laws and hiſtories of that kingdom, diſtinctly proves, that the French nation never had any kings, but of their own chuſing; that their kings had no power except what was conferred upon them; and that

Hiſt. delle guerre Civ.

Thuan. hiſt. l. i.

Hottom. Franco-Gallia.

* Ab hominibus infimæ ſortis in omnia ſimul vitia eſt præceps datus: tempora etiam corrupta, & vicinorum regum exempla, non parum ad eum evertendum juverunt: nam & Edvardus in Anglia, Carolus in Burgundia, Ludovicus undecimus in Gallia, Joannes Secundus in Luſitania, tyrannidis fundamenta jecerunt: Richardus Tertius in Anglia eam immaniſſime exercuit. Hiſt. Scot. l. 12.

† Davoir mis les roys hors de page.

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that they had been removed, when they exceſſively abuſed, or rendered themſelves unworthy of that truſt. This is ſufficiently clear by the forecited examples of Pharamond's grandchildren, and the degenerated races of Meroveus and Pepin; of which many were depoſed, ſome of the neareſt in blood excluded; and, when their vices ſeemed to be incorrigible, they were wholly rejected, All this was done by virtue of that rule, which they call the ſalic law: and tho' ſome of our princes, pretending to the inheritance of that crown by marrying the heirs general, denied that there was any ſuch thing, no man can ſay, that for the ſpace of above twelve hundred years females, or their deſcendents, who are by that law excluded, have ever been thought to have any right to the crown: and no law, unleſs it be explicitly given by God, can be of greater authority than one, which has been in force for ſo many ages. What the beginning of it was, is not known: but Charles the Sixth, receding from this law, and thinking to diſpoſe of the ſucceſſion otherwiſe than was ordained by it, was eſteemed mad, and all his acts reſcinded. And tho' the reputation, ſtrength, and valour of the Engliſh, commanded by Henry the Fifth, one of the braveſt princes that have ever been in the world, was terrible to the French nation; yet they oppoſed him to the utmoſt of their power, rather than ſuffer that law to be broken. And tho' our ſucceſs under his conduct was great and admirable; yet ſoon after his death, with the expence of much blood and treaſure, we loſt all that we had on that ſide, and ſuffered the penalty of having unadviſedly entered into that quarrel. By virtue of the ſame law, the agreement made by king John, when he was priſoner at London, by which he had alienated part of that dominion, as well as that of Francis the Firſt, concluded when he was under the ſame circumſtances at Madrid, were reputed null; and upon all occaſions that nation has given ſufficient teſtimony, that the laws by which they live are their own, made by themſelves, and not impoſed upon them. And it is as impoſſible for them, who made and depoſed kings, exalted or depreſſed reigning families, and preſcribed rules to the ſucceſſion, to have received from their own creatures the power, or part of the government they had, as for a man to be begotten by his own ſon. Nay, tho' their conſtitutions were much changed by Lewis the Eleventh, yet they retained ſo much of their antient liberty, that in the laſt age, when the houſe of Valois was as much depraved as thoſe of Meroveus and Pepin had been, and Henry the Third by his own lewdneſs, hypocriſy, cruelty, and impurity, together with the baſeneſs of his minions and favourites, had rendered himſelf odious and contemptible to the nobility and people; the great cities, parliaments, the greater and (in political matters) the ſounder part of the nation, declared him to be fallen from the crown, and purſued him to the death, tho' the blow was given by the hand of a baſe and half-diſtracted monk.

Henry of Bourbon was without controverſy the next heir; but neither the nobility nor the people, who thought themſelves in the government, would admit him to the crown, till he had given them ſatisfaction, that he would govern according to their laws, by abjuring his religion, which they judged inconſiſtent with them.

The

The later commotions in Paris, Bourdeaux, and other places, together with the wars for religion, ſhew, that tho' the French do not complain of every grievance, and cannot always agree in the defence and vindication of their violated liberties, yet they very well underſtand their rights; and that, as they do not live by or for the king, but he reigns by and for them; ſo their privileges are not from him, but that his crown is from them; and that, according to the true rule of their government, he can do nothing againſt their laws, or if he do, they may oppoſe him. SECT. 10.

The inſtitution of a kingdom is the act of a free nation; and whoever denies them to be free, denies that there can be any thing of right in what they ſet up. That which was true in the beginning is ſo, and muſt be ſo for ever. This is ſo far acknowledged by the higheſt monarchs, that in a treatiſe publiſhed in the year 1667. by authority of the preſent king of France, to juſtify his pretenſions to ſome part of the Low Countries, notwithſtanding all the acts of himſelf, and the king of Spain to extinguiſh them, it is ſaid * "That "kings are under the happy inability to do any thing againſt the "laws of their country." And tho' perhaps he may do things contrary to law, yet he grounds his power upon the law; and the moſt able and moſt truſted of his miniſters declare the ſame. About the year 1660. the count d'Aubijoux, a man of eminent quality in Languedoc, but averſe to the court, and hated by Cardinal Mazarin, had been tried by the parliament of Tholouſe for a duel, in which a gentleman was killed; and it appearing to the court (then in that city) that he had been acquitted upon forged letters of grace, falſe witneſſes, powerful friends, and other undue means, Mazarin deſired to bring him to a new trial: but the chancellor Seguier told the queen-mother it could not be; for the law did not permit a man once acquitted to be again queſtioned for the ſame fact; and that if the courſe of the law were interrupted, neither the Salique law, nor the ſucceſſion of her children, or any thing elſe, could be ſecure in France.

This is farther proved by the hiſtories of that nation. The kings of Meroveus and Pepin's races were ſuffered to divide the kingdom amongſt their ſons; or, as Hotoman ſays, the eſtates made the diviſion, and allotted to each ſuch a part as they thought fit. But when this way was found to be prejudicial to the public, an act of ſtate was made in the time of Hugh Capet, by which it was ordained, that for the future the kingdom ſhould not be diſmembred; which conſtitution continuing in force to this day, the ſons or brothers of their kings receive ſuch an apannage (they call it) as is beſtowed on them, remaining ſubject to the crown as well as other men. And there has been no king of France ſince that time (except only Charles the Sixth), who has not acknowledged, that he cannot alienate any part of their dominion. Hotom. Fran. Gall.

Whoever imputes the acknowledgment of this to kingcraft, and ſays, that they who avow this, when it is for their advantage, will deny it on a different occaſion, is of all men their moſt dangerous

* Que les roys ont cette bienheureuſe impuiſſance de ne pouvoir rien faire contre les loix de leur pays. Traité des droits de la reyne.

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enemy. In laying ſuch fraud to their charge he deſtroys the veneration by which they ſubſiſt, and teaches ſubjects not to keep faith with thoſe, who by the moſt malicious deceits ſhew, that they are tied by none. Human ſocieties are maintained by mutual contracts, which are of no value if they are not obſerved. Laws are made, and magiſtrates created, to cauſe them to be performed in public and private matters, and to puniſh thoſe who violate them. But none will ever be obſerved, if he who receives the greateſt benefit by them, and is ſet up to overſee others, give the example to thoſe who of themſelves are too much inclined to break them. The firſt ſtep that Pompey made to his own ruin was, by violating the laws he himſelf had propoſed. But it would be much worſe for kings to break thoſe that are eſtabliſhed by the authority of a whole people, and confirmed by the ſucceſſion of many ages.

Suarum legum lator & everſor. Tacit.

I am far from laying any ſuch blemiſhes on them, or thinking that they deſerve them. I muſt believe the French king ſpeaks ſincerely, when he ſays he can do nothing againſt the laws of his country: and that our king James did the like, when he acknowledged himſelf to be the ſervant of the commonwealth; and the rather, becauſe it is true, and that he is placed in the throne to that end. Nothing is more eſſential and fundamental in the conſtitutions of kingdoms, than that diets, parliaments, and aſſemblies of eſtates, ſhould ſee this performed. It is not the king that gives them a right to judge of matters of war or peace, to grant ſupplies of men and money, or to deny them; and to make or abrogate laws at their pleaſure: all the powers rightly belonging to kings, or to them, proceed from the ſame root. The northern nations ſeeing what miſchiefs were generally brought upon the eaſtern, by referring too much to the irregular will of a man; and what thoſe who were more generous had ſuffered, when one man by the force of a corrupt mercenary ſoldiery had overthrown the laws by which they lived, feared they might fall into the ſame miſery; and therefore retained the greater part of the power to be exerciſed by their general aſſemblies, or by delegates, when they grew ſo numerous that they could not meet. Theſe are the kingdoms of which Grotius ſpeaks, "where the king has his "part, and the ſenate or people their part of the ſupreme authority;" and where the law preſcribes ſuch limits, "that if the king attempt "to ſeize that part which is not his, he may juſtly be oppoſed:" which is as much as to ſay, that the law upholds the power it gives, and turns againſt thoſe who abuſe it.

De jur. bel. & pac. l. ii.

Ibid.

This doctrine may be diſpleaſing to court-paraſites; but no leſs profitable to ſuch kings as follow better counſels, than to the nations that live under them: the wiſdom and virtue of the beſt is always fortified by the concurrence of thoſe who are placed in part of the power; they always do what they will, when they will nothing but that which is good; and it is a happy impotence in thoſe, who through ignorance or malice deſire to do evil, not to be able to effect it. The weakneſs of ſuch as by defects of nature, ſex, age, or education, are not able of themſelves to bear the weight of a kingdom, is thereby ſupported, and they, together with the people under them, preſerved from ruin; the furious raſhneſs of the inſolent is reſtrained;

ſtrained; the extravagance of thoſe, who are naturally lewd, is awed; and the beſtial madneſs of the moſt violently wicked and outrageous, ſuppreſſed. When the law provides for theſe matters, and preſcribes ways by which they may be accompliſhed, every man who receives or fears an injury, ſeeks a remedy in a legal way, and vents his paſſions in ſuch a manner, as brings no prejudice to the commonwealth: if his complaints againſt a king may be heard, and redreſſed by courts of juſtice, parliaments, and diets, as well as againſt private men, he is ſatisfied, and looks no farther for a remedy. But if kings, like thoſe of Iſrael, will neither judge nor be judged, and there be no power orderly to redreſs private or public injuries, every man has recourſe to force, as if he lived in a wood, where there is no law; and that force is always mortal to thoſe who provoke it: no guards can preſerve a hated prince from the vengeance of one reſolute hand; and they as often fall by the ſwords of their own guards as of others: wrongs will be done, and when they that do them cannot or will not be judged publicly, the injured perſons become judges in their own caſe, and executioners of their own ſentence. If this be dangerous in matters of private concernment, it is much more ſo in thoſe relating to the public. The lewd extravagancies of Edward and Richard the Seconds, whilſt they acknowledged the power of the law, were gently reproved and reſtrained with the removal of ſome profligate favourites; but, when they would admit of no other law than their own will, no relief could be had but by their depoſition. The lawful Spartan kings, who were obedient to the laws of their country, lived in ſafety, and died with glory: whereas it was a ſtrange thing to ſee a lawleſs tyrant die without ſuch infamy and miſery, as held a juſt proportion with the wickedneſs of his life: they did, as Plutarch ſays of Dionyſius, many miſchiefs, and ſuffered more. This is confirmed by the examples of the kingdom of Iſrael, and of the empires of Rome and Greece; they who would ſubmit to no law, were deſtroyed without any. I know not whether they thought themſelves to be Gods, as our author ſays they were; but I am ſure the moſt part of them died like dogs, and had the burial of aſſes rather than of men.

Sect. 30.

Vit. Timoleon.

This is the happineſs to which our author would promote them all. "If a king admit a people to be his companions, he ceaſeth to be a "king, and the ſtate becomes a democracy." And a little farther, "If in ſuch aſſemblies, the king, nobility, and people, have equal "ſhares in the ſovereignty, then the king hath but one voice, the "nobility likewiſe one, and the people one; and then any two of theſe "voices ſhould have power to over-rule the third: thus the nobility and "commons ſhould have a power to make a law to bridle the king, "which was never ſeen in any kingdom." We have heard of nations, that admitted a man to reign over them (that is, made him king), but of no man that made a people. The Hebrews made Saul, David, Jeroboam, and other kings: when they returned from captivity, they conferred the ſame title upon the Aſmonean race, as a reward of their valour and virtue: the Romans choſe Romulus, Numa, Hoſtilius, and others, to be their kings; the Spartans inſtituted two, one of the Heraclidæ, the other of the Æacidæ. Other nations ſet up one, a few, or more

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more magiſtrates to govern them: and all the world agrees, that "qui "dat eſſe, dat modum eſſe;" he that makes him to be, makes him to be what he is: and nothing can be more abſurd than to ſay, that he who has nothing but what is given, can have more than is given to him. If Saul and Romulus had no other title to be kings, than what the people conferred upon them, they could be no otherwiſe kings, than as pleaſed the people: they therefore did not admit the people to be partakers of the government; but the people, who had all in themſelves, and could not have made a king, if they had not had it, beſtowed upon him what they thought fit, and retained the reſt in themſelves. If this were not ſo, then, inſtead of ſaying to the multitude, "Will ye "have this man to reign?" they ought to ſay to the man, "Wilt thou "have this multitude to be a people?" And whereas the nobles of Arragon uſed to ſay to their new-made king, "We, who are as good "as you, make you our king, on condition you keep and maintain our "rights and liberties, and if not, not;" he ſhould have ſaid to them, I, who am better than you, make you to be a people, and will govern you as I pleaſe. But I doubt whether he would have ſucceeded, till that kingdom was joined to others of far greater ſtrength, from whence a power might be drawn to force them out of their uſual method.

That which has been ſaid of the governments of England, France, and other countries, ſhews them to be of the ſame nature; and if they do not deſerve the name of kingdoms, and that their princes will by our author's arguments be perſuaded to leave them, thoſe nations perhaps will be ſo humble to content themſelves without that magnificent title, rather than reſign their own liberties to purchaſe it: and, if this will not pleaſe him, he may ſeek his glorious ſovereign monarchy among the wild Arabs, or in the iſland of Ceylon; for it will not be found among civilized nations.

However, more ignorance cannot be expreſſed, than by giving the name of democracy to thoſe governments that are compoſed of the three ſimple ſpecies, as we have proved that all the good ones have ever been: for in a ſtrict ſenſe it can only ſuit with thoſe, where the people retain to themſelves the adminiſtration of the ſupreme power; and more largely, when the popular part, as in Athens, greatly over-balances the other two, and that the denomination is taken from the prevailing part. But our author, if I miſtake not, is the firſt that ever took the antient governments of Iſrael, Sparta, and Rome, or thoſe of England, France, Germany, and Spain, to be democracies, only, becauſe every one of them had ſenates and aſſemblies of the people, who in their perſons, or by their deputies, did join with their chief magiſtrates in the exerciſe of the ſupreme power. That of Iſrael, to the time of Saul, is called by Joſephus an ariſtocracy. The ſame name is given to that of Sparta by all the Greek authors; and the great conteſt in the Peloponneſian war was between the two kinds of government; the cities that were governed ariſtocratically, or deſired to be ſo, following the Lacedemonians; and ſuch as delighted in democracy taking part with the Athenians. In like manner Rome, England, and France, were ſaid to be under monarchies; not that their kings might do what they pleaſed, but becauſe one man had a pre-eminence above any other. Yet if the Romans could take Romu-

lus,

lus, the ſon of a man that was never known, Numa a Sabine, Hoſtilius, and Ancus Martius, private men, and Tarquinius Priſcus the ſon of a baniſhed Corinthian, who had no title to a preference before others till it was beſtowed upon them; it is ridiculous to think, that they who gave them what they had, could not ſet what limits they pleaſed to their own gift. SECT. 30.

But, ſays our author, "The nobility will then have one voice, and the "people another; and they joining may over-rule the third; which was "never ſeen in any kingdom." This may perhaps be one way of regulating the monarchical power; but it is not neceſſary, nor the only one: there may be a ſenate, tho' the people be excluded; that ſenate may be compoſed of men choſen for their virtue, as well as for the nobility of their birth: the government may conſiſt of king and people without a ſenate; or the ſenate may be compoſed only of the peoples delegates. But, if I ſhould grant his aſſertion to be true, the reaſonableneſs of ſuch a conſtitution cannot be deſtroyed by the conſequences he endeavours to draw from it; for he who would inſtruct the world in matters of ſtate, muſt ſhew what is or ought to be, not what he fanſies may thereupon enſue. Beſides, it does not follow, that where there are three equal votes, laws ſhould be always made by the plurality; for the conſent of all the three is in many places required; and it is certain, that in England, and other parts, the king and one of the eſtates cannot make a law without the concurrence of the other. But, to pleaſe Filmer, I will avow, that where the nobles and commons have an equal vote, they may join and over-rule or limit the power of the king: and I leave any reaſonable man to judge, whether it be more ſafe and fit, that thoſe two eſtates, comprehending the whole body of the nation in their perſons, or by repreſentation, ſhould have a right to over-rule or limit the power of that man, woman, or child, who ſits in the throne; or that he or ſhe, young or old, wiſe or fooliſh, good or bad, ſhould over-rule them, and by their vices, weakneſs, folly, impertinence, incapacity, or malice, put a ſtop to their proceedings; and whether the chief concernments of a nation may more ſafely and prudently be made to depend upon the votes of ſo many eminent perſons, amongſt whom many wiſe and good men will always be found, if there be any in the nation, and who in all reſpects have the ſame intereſts with them, or upon the will of one, who may be, and often is, as vile, ignorant, and wretched, as the meaneſt ſlave; and either has, or is for the moſt part made to believe he has, an intereſt ſo contrary to them, that their ſuppreſſion is his advancement. Common ſenſe ſo naturally leads us to the deciſion of this queſtion, that I ſhould not think it poſſible for mankind to have miſtaken, tho' we had no examples of it in hiſtory: and it is in vain to ſay, that all princes are not ſuch as I repreſent; for if a right were annexed to the being of a prince, and that his ſingle judgment ſhould overbalance that of a whole nation, it muſt belong to him as a prince, and be enjoyed by the worſt and baſeſt, as well as by the wiſeſt and beſt, which would inevitably draw on the abſurdities above-mentioned: but that many are, and have been ſuch, no man can deny, or reaſonably hope, that they will not often prove to be ſuch, as long as any preference is granted to thoſe who have no-

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thing to recommend them, but the families from whence they derive; a continual ſucceſſion of thoſe who excel in virtue, wiſdom, and experience, being promiſed to none, nor reaſonably to be expected from any. Such a right therefore cannot be claimed by all; and if not by all, then not by any, unleſs it proceed from a particular grant in conſideration of perſonal virtue, ability, and integrity, which muſt be proved: and when any one goes about to do it, I will either acknowledge him to be in the right, or give the reaſons of my denial.

However this is nothing to the general propoſition: nay, if a man were to be found, who had more of the qualities required for making a right judgment in matters of the greateſt importance, than a whole nation, or an aſſembly of the beſt men choſen out of it (which I have never heard to have been, unleſs in the perſons of Moſes, Joſhua, or Samuel, who had the Spirit of God for their guide) it would be nothing to our purpoſe; for even he might be biaſſed by his perſonal intereſts, which governments are not eſtabliſhed principally to promote.

I may go a ſtep farther, and truly ſay, that as ſuch vaſt powers cannot be generally granted to all who happen to ſucceed in any families, without evident danger of utter deſtruction, when they come to be executed by children, women, fools, vitious, incapable or wicked perſons, they can be reaſonably granted to none, becauſe no man knows what any one will prove till he be tried; and the importance of the affair requires ſuch a trial as can be made of no man till he be dead. He that reſiſts one temptation may fall under the power of another; and nothing is more common in the world, than to ſee thoſe men fail groſſly in the laſt actions of their lives, who had paſſed their former days without reproach: wiſe and good men will with Moſes ſay of themſelves, "I cannot bear the burden:" and every man who is concerned for the public good, ought to let fools know they are not fit to undergo it, and by law to reſtrain the fury of ſuch as will not be guided by reaſon. This could not be denied, tho' governments were conſtituted for the good of the governor. It is good for him that the law appoints helps for his infirmities, and reſtrains his vices: but all nations ought to do it tho' it were not ſo, inaſmuch as kingdoms are not eſtabliſhed for the good of one man, but of the people; and that king who ſeeks his own good before that of the people, departs from the end of his inſtitution.

This is ſo plain, that all nations who have acted freely, have ſome way or other endeavoured to ſupply the defects, or reſtrain the vices of their ſupreme magiſtrates; and thoſe among them deſerve moſt praiſe, who, by appointing means adequate to ſo great a work, have taken care that it might be eaſily and ſafely accompliſhed: ſuch nations have always flouriſhed in virtue, power, glory, and happineſs, whilſt thoſe who wanted their wiſdom, have ſuffered all manner of calamities by the weakneſs and injuſtice of their princes, or have had their hands perpetually in blood to preſerve themſelves from their fury. We need no better example of the firſt, than that of the Spartans, who, by appointing ſuch limits to the power of their kings as could hardly be tranſgreſſed, continued many ages in great union

union with them, and were never troubled with civil tumults. The like may be ſaid of the Romans, from the expulſion of the Tarquins, till they overthrew their own orders, by continuing Marius for five years in the conſulate, whereas the laws did not permit a man to hold the ſame office two years together; and when that rule was broken, their own magiſtrates grew too ſtrong for them, and ſubverted the commonwealth. When this was done, and the power came to be in the hands of one man, all manner of evils and calamities broke in like a flood: it is hard to judge, whether the miſchiefs he did, or thoſe he ſuffered, were the greater; he who ſet up himſelf to be lord of the world, was like to a beaſt crowned for the ſlaughter, and his greatneſs was the forerunner of his ruin. By this means ſome of thoſe who ſeem not to have been naturally prone to evil, were by their fears put upon ſuch courſes to preſerve themſelves, as being rightly eſtimated, were worſe than the death they apprehended: and the ſo much celebrated Conſtantine the Great died no leſs polluted with the blood of his neareſt relations and friends, than Nero himſelf. But no place can ſhew a more lively picture of this, than the kingdoms of Granada, and others poſſeſſed by the Moors in Spain; where, there being neither ſenate, nor aſſemblies of the nobility and people, to reſtrain the violence and fury of their kings, they had no other way than to kill them when their vices became inſupportable; which happening for the moſt part, they were almoſt all murdered; and things were brought to ſuch extremity, that no man would accept a crown, except he who had neither birth nor virtue to deſerve it. SECT. 30. Hiſt. de Eſpan. de Mariana.

If it be ſaid, that kings have now found out more eaſy ways of doing what they pleaſe, and ſecuring themſelves; I anſwer, that they have not proved ſo to them all, and it is not yet time for ſuch as tread in the ſame ſteps to boaſt of their ſucceſs: many have fallen when they thought their deſigns accompliſhed; and no man, as long as he lives, can reaſonably aſſure himſelf the like ſhall not befal him. But if in this corrupted age, the treachery and perjury of princes be more common than formerly; and the number of thoſe who are brought to delight in the rewards of injuſtice, be ſo increaſed, that their parties are ſtronger than formerly: this rather ſhews, that the balance of power is broken, or hard to be kept up, than that there ought to be none; and it is difficult for any man, without the ſpirit of prophecy, to tell what this will produce. Whilſt the antient conſtitutions of our northern kingdoms remained intire, ſuch as conteſted with their princes ſought only to reform the governments, and by redreſſing what was amiſs, to reduce them to their firſt principles; but they may not perhaps be ſo modeſt, when they ſee the very nature of their government changed, and the foundations overthrown. I am not ſure that they who were well pleaſed with a moderate monarchy, will ſubmit to one that is abſolute; and it is not improbable, that when men ſee there is no medium between tyranny and popularity, they who would have been contented with the reformation of their government, may proceed farther, and have recourſe to force, when there is no help in the law. This will be a hard work in thoſe places where virtue is wholly aboliſhed; but the difficulty will lie on the other ſide, if any ſparks of that remain: if vice and corruption prevail, liberty cannot

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not ſubſiſt; but if virtue have the advantage, arbitrary power cannot be eſtabliſhed. Thoſe who boaſt of their loyalty, and think they give teſtimonies of it, when they addict themſelves to the will of one man, tho' contrary to the law from whence that quality is derived, may conſider, that by putting their maſters upon illegal courſes they certainly make them the worſt of men, and bring them into danger of being alſo the moſt miſerable. Few or no good princes have fallen into diſaſters, unleſs through an extremity of corruption introduced by the moſt wicked; and cannot properly be called unhappy, if they periſhed in their innocence; ſince the bitterneſs of death is aſſwaged by the tears of a loving people, the aſſurance of a glorious memory, and the quiet of a well ſatisfied mind. But of thoſe who have abandoned themſelves to all manner of vice, followed the impulſe of their own fury, and ſet themſelves to deſtroy the beſt men for oppoſing their pernicious deſigns, very few have died in peace. Their lives have been miſerable, death infamous, and memory deteſtable.

They therefore who place kings within the power of the law, and the law to be a guide to kings, equally provide for the good of king and people. Whereas they who admit of no participants in power, and acknowlege no rule but their own will, ſet up an intereſt in themſelves againſt that of their people, loſe their affections, which is their moſt important treaſure, and incur their hatred, from whence reſults their greateſt danger.

SECT. XXXI.

The liberties of nations are from God and nature, not from kings.

WHatſoever is uſually ſaid in oppoſition to this, ſeems to proceed from a groundleſs conceit, that the liberties enjoyed by nations ariſe from the conceſſions of princes. This point has been already treated: but being the foundation of the doctrine I oppoſe, it may not be amiſs farther to examine how it can be poſſible for one man born under the ſame condition with the reſt of mankind to have a right in himſelf that is not common to all others, till it be by them, or a certain number of them, conferred upon him; or how he can, without the utmoſt abſurdity, be ſaid to grant liberties and privileges to them who made him to be what he is.

If I had to do with a man that ſought after truth, I ſhould think he had been led into this extravagant opinion by the terms ordinarily uſed in patents and charters granted to particular men; and not diſtinguiſhing between the proprietor and the diſpenſer, might think kings had given, as their own, that which they only diſtribute out of the public treaſury, and could have had nothing to diſtribute by parcels, if it had not been given to them in groſs by the public. But I need not uſe our author ſo gently. The perverſity of his judgment, and obſtinate hatred to truth, is ſufficient to draw him into the moſt

moſt abſurd errors without any other inducement; and it were not charity, but folly, to think he could have attributed in general to all princes, without any regard to the ways by which they attain to their power, ſuch an authority as never juſtly belonged to any. SECT. 30.

This will be evident to all thoſe who conſider, that no man can confer upon others that which he has not in himſelf: if he be originally no more than they, he cannot grant to them, or any of them, more than they to him. In the 7th, 8th, 9th, and ſubſequent ſections of the firſt chapter, it has been proved, that there is no reſemblance between the paternal right, and the abſolute power, which he aſſerts in kings: that the right of a father, whatever it be, is only over his children: that this right is equally inherited by them all when he dies: that every one cannot inherit dominion; for the right of one would be inconſiſtent with that of all others: that the right which is common to all is that which we call liberty, or exemption from dominion: that the firſt fathers of mankind after the flood had not the exerciſe of regal power: and whatſoever they had was equally devolved to every one of their ſons, as appears by the examples of Noah, Shem, Abraham, Iſaac, Jacob, and their children: that the erection of Nimrod's kingdom was directly contrary to, and inconſiſtent with, the paternal right, if there was any regality in it: that the other kingdoms of that time were of the ſame nature: that Nimrod, not exceeding the age of threeſcore years when he built Babel, could not be the father of thoſe that aſſiſted him in that attempt: that if the ſeventy-two kings, who, as our author ſays, went from Babylon upon the confuſion of languages, were not the ſons of Nimrod, he could not govern them by the right of a father; if they were, they muſt have been very young, and could not have children of their own to people the kingdoms they ſet up: that whoſe children ſoever they were, who out of a part of mankind did, within a hundred and thirty-two years after the flood, divide into ſo many kingdoms, they ſhewed that others in proceſs of time might ſubdivide into as many as they pleaſed; and kingdoms multiplying in the ſpace of four thouſand years ſince the 72, in the ſame proportion they did in one hundred and thirty-two years into ſeventy-two, there would now be as many kings in the world as there are men; that is, no man could be ſubject to another: that this equality of right, and exemption from the domination of any other, is called liberty: that he, who enjoys it, cannot be deprived of it, unleſs by his own conſent, or by force: that no one man can force a multitude; or, if he did, it could confer no right upon him: that a multitude, conſenting to be governed by one man, doth confer upon him the power of governing them; the powers therefore that he has, are from them; and they who have all in themſelves can receive nothing from him, who has no more than every one of them, till they do inveſt him with it. This is proved by ſacred and profane hiſtories. The Hebrews in the creation of judges, kings, or other magiſtrates, had no regard to paternity, or to any who by extraction could in the leaſt pretend to the right of fathers: God did never direct them to do it, nor reprove them for neglecting it: if they would chuſe a king, he commanded them to take one of their brethren, not one who called

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himſelf their father: when they did reſolve to have one, he commanded them to chuſe him by lot, and cauſed the lot to fall upon a young man of the youngeſt tribe: David, and the other kings of Iſrael or Judah, had no more to ſay for themſelves in that point than Saul: all the kings of that nation before and after the captivity, ordinarily or extraordinarily ſet up, juſtly or unjuſtly, were raiſed without any regard to any prerogative they could claim or arrogate to themſelves on that account. All that they had therefore was from their elevation, and their elevation from thoſe that elevated them. It was impoſſible for them to confer any thing upon thoſe from whom they received all they had; or for the people to give power to kings, if they had not had it in themſelves; which power, univerſally reſiding in every one, is that which we call liberty. The method of other nations was much like to this. They placed thoſe in the throne who ſeemed beſt to deſerve ſo great an honour, and moſt able to bear ſo great a burden: the kingdoms of the heroes were nothing elſe, but the government of thoſe who were moſt beneficent to the nations amongſt whom they lived, and whoſe virtues were thought fit to be raiſed above the ordinary level of the world. Tho' perhaps there was not any one Athenian or Roman equal to Theſeus or Romulus in courage and ſtrength, yet they were not able to ſubdue many: or if any man ſhould be ſo vain to think, that each of them did at firſt ſubdue one man, then two, and ſo proceeding by degrees conquered a whole people, he cannot without madneſs aſcribe the ſame to Numa, who, being ſent for from a foreign country, was immediately made king of a fierce people, that had already conquered many of their neighbours, and was grown too boiſterous even for Romulus himſelf. The like may be ſaid of the firſt Tarquin, and of Servius; they were ſtrangers: and tho' Tullus Hoſtilius and Ancus Martius were Romans, they had as little title to a dominion over their fellow-citizens, or means of attaining to it, as if they had come from the fartheſt parts of the earth. This muſt be in all places, unleſs one man could prove by a perfect and uninterrupted genealogy, that he is the eldeſt ſon of the eldeſt line of Noah, and that line to have continued perpetually in the government of the world: for if the power has been divided, it may be ſubdivided into infinity; if interrupted, the chain is broken, and can never be made whole. But if our author can perform this for the ſervice of any man, I willingly ſurrender my arms, and yield up the cauſe I defend. If he fail, it is ridiculous to pretend a right that belongs to no man, or to go about to retrieve a right, which for the ſpace of four thouſand years has lain dormant; and much more to create that which never had a ſubſiſtence. This leads us neceſſarily to a concluſion, that all kingdoms are at the firſt erected by the conſent of nations, and given to whom they pleaſe; or elſe all are ſet up by force, or ſome by force, and ſome by conſent: if any are ſet up by the conſent of nations, thoſe kings do not confer liberties upon thoſe nations, but receive all from them, and the general propoſition is falſe. If our author therefore, or his followers, would confute me, they muſt prove, that all the kingdoms of the world have their beginning from force, and that force doth always create a right; or, if they recede from the general propoſi-

tion, and attribute a peculiar right to one or more princes, who are ſo abſolute lords of their people, that thoſe under them have neither liberty, privilege, property, or part, in the government, but by their conceſſions, they muſt prove, that thoſe princes did by force gain the power they have, and that their right is derived from it. This force alſo muſt have been perpetually continued; for if that force be the root of the right that is pretended, another force, by the ſame rule, may overturn, extinguiſh, or transfer it to another hand. If contracts have intervened, the force ceaſes; and the right that afterwards doth accrue to the perſons, muſt proceed from, and be regulated according to thoſe contracts. SECT. 30.

This may be ſufficient to my purpoſe: for as it has been already proved, that the kingdoms of Iſrael, Judah, Rome, Sparta, France, Spain, England, and all that we are concerned in, or that deſerve to be examples to us, did ariſe from the conſent of the reſpective nations, and were frequently reduced to their firſt principles, when the princes have endeavoured to tranſgreſs the laws of their inſtitution; it could be nothing to us, tho' Attila or Tamerlan had by force gained the dominions they poſſeſſed. But I dare go a ſtep further, and boldly aſſert, that there never was, or can be, a man in the world, that did or can ſubdue a nation; and that the right of one grounded upon force is a mere whimſy. It was not Agathocles, Dionyſius, Nabis, Marius, Sylla, or Cæſar, but the mercenary ſoldiers, and other villains that joined with them, who ſubdued the Syracuſans, Spartans, or Romans: and as the work was not performed by thoſe tyrants alone, if a right had been gained by the violence they uſed, it muſt have been common to all thoſe that gained it; and he that commanded them could have had no more than they thought fit to confer upon him. When Miltiades deſired leave to wear an olive garland, in commemoration of the victory obtained at Marathon, an Athenian did in my opinion rightly ſay, "If you alone did fight againſt the "Perſians, it is juſt that you only ſhould be crowned; but if others "did participate in the victory, they ought alſo to have a part in "the honour." And the principal difference that I have obſerved between the moſt regular proceedings of the wiſeſt ſenates or aſſemblies of the people in their perſons or delegates, and the fury of the moſt diſſolute villains, has been, that the firſt ſeeking the public good, do uſually ſet up ſuch a man, and inveſt him with ſuch powers as ſeem moſt conducing to that good: whereas the others, following the impulſe of a beſtial rage, and aiming at nothing but the ſatisfaction of their own luſts, always advance one from whom they expect the greateſt advantages to themſelves, and give him ſuch powers as moſt conduce to the accompliſhment of their own ends: but as to the perſon it is the ſame thing. Cæſar and Nero did no more make themſelves what they were, than Numa; and could no more confer any right, liberty, or privilege, upon the army, that gave them all they had, than the moſt regular magiſtrate can upon the ſenate or people that choſe them. Plut. in vit. Cim.

This alſo is common to the worſt as well as the beſt, that they who ſet up either, do, as into a public treaſury, confer upon the perſon they chuſe, a power of diſtributing to particular men, or numbers of men, ſuch

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ſuch honours, privileges, and advantages, as they may ſeem, according to the principles of the government, to deſerve. But there is this difference, that the ends of the one being good, and thoſe of the other evil, the firſt do, for the moſt part, limit the powers, that ſomething may remain to reward ſervices done to the public, in a manner proportioned to the merit of every one, placing other magiſtrates to ſee it really performed, ſo as they may not, by the weakneſs or vices of the governor, be turned to the public detriment: the others think they never give enough, that the prince, having all in his power, may be able to gratify their moſt exorbitant deſires, if by any ways they can get his favour; and his infirmities and vices being moſt beneficial to them, they ſeldom allow to any other magiſtrate a power of oppoſing his will, or ſuffer thoſe who for the public good would aſſume it. The world affords many examples of both ſorts, and every one of them have had their progreſs ſuitable to their conſtitution. The regular kingdoms of England, France, Spain, Poland, Bohemia, Denmark, Sweden, and others, whether elective or hereditary, have had high ſtewards, conſtables, mayors of the palace, rixhofmeiſters, parliaments, diets, aſſemblies of eſtates, cortez, and the like, by which thoſe have been admitted to ſucceed who ſeemed moſt fit for the public ſervice; the unworthy have been rejected; the infirmities of the weak ſupplied; the malice of the unjuſt reſtrained; and when neceſſity required, the crown transferred from one line or family to another. But in the furious tyrannies that have been ſet up by the violence of a corrupted ſoldiery, as in the antient Roman empire, the kingdoms of the Moors and Arabians, the tyrannies of Ezzelino of Padoa, thoſe of the Viſconti and Sforzeſchi of Milan, Caſtruccio Caſtracani of Lucca, Cæſar Borgia, and others, there was nothing of all this. The will of the prince was a law; all power was in him, and he kept it, till another ſtept up and took it from him, by the ſame means that he had gained it. This fell out ſo frequently, that tho' all the Roman emperors endeavoured to make their power hereditary, it hardly continued three generations in one line from Auguſtus to Auguſtulus, unleſs in that of Conſtantine, and that with extreme confuſion and diſorder. They who had madly ſet up a man to be their head, and expoſed ſo much of the world as was under their power, to be deſtroyed by him, did by the like fury throw him down, and never ceaſed till they had brought the empire to utter ruin.

But if this paternal ſovereignty be a mere fiction, that never had any effect; and no nation was ever commanded by God to make it their rule, nor any reproved for the neglect of it; none ever learnt it from the light of nature, nor were by wiſe men taught to regard it: the firſt fathers claimed no privilege from it when every man's genealogy was known; and if there were ſuch a thing in nature, it could be of no uſe at this day, when the ſeveral races of men are ſo confuſed, that not one in the world can prove his own original; and that the firſt kingdoms, whether well or ill conſtituted, according to the command of God, or the inventions of men, were contrary to, and incompatible with it; and there can have been no juſtice in any, if ſuch a rule was to have been obſerved; the continuance of an unjuſt

uſurpation

uſurpation can never have created a right, but aggravated the injuſtice of overthrowing it: no man could ever by his own ſtrength and courage ſubdue a multitude, nor gain any other right over them, if he did, than they might have to tear it from him: whoever denies kingdoms, and other magiſtracies, to have been ſet up by men, according to their own will, and from an opinion of receiving benefit by them, accuſes all the governments that are, or ever have been, in the world, of that outrageous injuſtice in their foundation, which can never be repaired. If there be therefore, or ever was, any juſt government amongſt men, it was conſtituted by them; and whether their proceedings were regular or violent, juſt or unjuſt, the powers annexed to it were their donation: the magiſtracies erected by them, whether in one or more men, temporary or perpetual, elective or hereditary, were their creatures; and receiving all from them, could confer nothing upon them. SECT. 32.

SECT. XXXII.

The contracts made between magiſtrates, and the nations that created them, were real, ſolemn, and obligatory.

OUR author, having with big words, and little ſenſe, inveighed againſt popular and mixed governments, proceeds as if he had proved they could not, or ought not to be. "If it be," ſays he, "unnatural for the multitude to chuſe their governors, or to govern, or "to partake in the government; what can be thought of that damnable concluſion which is made by too many, that the multitude may "correct or depoſe their princes, if need be? Surely the unnaturalneſs and injuſtice of this poſition cannot ſufficiently be expreſſed. "For admit that a king make a contract or paction with his people "originally in his anceſtors, or perſonally at his coronation (for both "theſe pactions ſome dream of, but cannot offer any proof of either); "yet by no law of any nation can a contract be thought broken, except firſt a lawful trial be had by the ordinary judge of the breakers "thereof; or elſe, every man may be both party and judge in his own "caſe, which is abſurd once to be thought; for then it will lie in "the hands of the headleſs multitude, when they pleaſe, to caſt off "the yoke of government that God hath laid upon them, and to "judge and puniſh him, by whom they ſhould be judged and puniſhed "themſelves." To this I firſt anſwer briefly, That if it be natural for the multitude to chuſe their governors, or to govern, or to participate of the government as beſt pleaſes themſelves; or that there never was a government in the world that was not ſo ſet up by them, in purſuance of the power naturally inherent in themſelves; what can be thought of that damnable concluſion, which has been made by fools or knaves, that the multitude may not, if need be, correct or depoſe their own magiſtrates? Surely the unnaturalneſs and injuſtice of ſuch a poſition cannot be ſufficiently expreſſed. If that were admitted,

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mitted, all the moſt ſolemn pacts and contracts made between nations and their magiſtrates, originally or perſonally, and confirmed by laws and mutual oaths, would be of no value. He that would break the moſt ſacred bonds, that can be amongſt men, ſhould by perjury and wickedneſs become judge of his own caſe, and by the worſt of crimes procure impunity for all. It would be in his power by folly, wickedneſs, and madneſs, to deſtroy the multitude, which he was created and ſworn to preſerve, tho' wiſe, virtuous, and juſt, and headed by the wiſeſt and juſteſt of men; or to lay a yoke upon thoſe who by the laws of God and nature ought to be free: he might in his own caſe judge that body by which he ought to be judged; and who, in conſideration of themſelves, and their own good, made him to be whatſoever he is more than every one of them: the governments inſtituted for the preſervation of nations would turn to their deſtruction: it would be impoſſible to check the fury of a corrupt and perfidious magiſtrate: the worſt of men would be raiſed to a height, that was never deſerved by the beſt; and the aſſurance of indemnity would, by increaſing their inſolence, turn their other vices into madneſs, as has been too often ſeen in thoſe, who have had more power than they deſerved, and were more hardly brought to account for their actions than ought to have been; tho' I never heard of any who had ſo much as our author aſſerts to be in all, nor that any was abſolutely aſſured he ſhould not be queſtioned for the abuſe of what he had.

Beſides, if every people may govern, or conſtitute and chuſe one or more governors, they may divide the powers between ſeveral men, or ranks of men, allotting to every one ſo much as they pleaſe, or retaining ſo much as they think fit. This has been practiſed in all the governments, which under ſeveral forms have flouriſhed in Paleſtine, Greece, Italy, Germany, France, England, and the reſt of the world. The laws of every place ſhew what the power of the reſpective magiſtrate is, and, by declaring how much is allowed to him, declare what is denied; for he has not that which he has not; and is to be accounted a magiſtrate whilſt he exerciſes that which he has.

If any doubts do hereupon ariſe, I hope to remove them, proving, in the firſt place, that ſeveral nations have plainly and explicitly made contracts with their magiſtrates.

2. That they are implicit, and to be underſtood, where they are not plainly expreſſed.

3. That they are not dreams, but real things, and perpetually obliging.

4. That judges are in many places appointed to decide the conteſts ariſing from the breach of theſe contracts; and where they are not, or the party offending is of ſuch force or pride, that he will not ſubmit, nations have been obliged to take the extremeſt courſes.

To the firſt: I ſuppoſe it will not be denied, that the annual magiſtrates of divers commonwealths are under ſome compact, and that there is a power of conſtraining them to perform the contents, or to puniſh them for the violation. The modeſt behaviour of the Roman conſuls and dictators (as long as their laws were in force)

might not probably proceed from their good-nature. Tho' the people had not been, as our author ſays, "mad, fooliſh, and always de- "ſirous to chuſe the worſt men for being moſt like to themſelves," but admirably wiſe and virtuous, it is not to be imagined, that in the ſpace of three or four hundred years they ſhould never have fallen upon one who would have tranſgreſſed, if he could have done it ſafely, tho' they had uſed the utmoſt caution in their choice. But the power of the conſuls being only for a year, that of the dictator for ſix months at moſt, and the commiſſion, that he ſhould take care * the commonwealth might ſuffer no damage, ſhews the end and condition upon which they were choſen; and tho' their power is by ſome thought to have been abſolute, yet the conſuls were frequently oppoſed, and brought into order by the ſenate, tribunes, or people, and ſometimes the dictator himſelf. Camillus in his fourth dictator- Plut. vit. Camil. ſhip was threatened by the tribunes with a great fine, and by that means obliged to abdicate his magiſtracy. I have already mentioned Marcus Fabius Maximus, who in the behalf of his ſon Quintus condemned to die by Papirius the dictator, appealed to the † people: and when the conduct of Fabius, in the war againſt Hannibal, was not approved, Nænius the tribune thought he made a very modeſt propoſition, in that he did not deſire his magiſtracy ſhould be abrogated; but that the maſter of the horſe ſhould be made equal to him in power, which was done accordingly. It is agreed by all, that the conſuls were in the place of kings, and that the power of the dictator was at the leaſt equal to what theirs had been. If they therefore were under ſuch a rule, which they could not tranſgreſs, or might be reduced to order if they did, and forced to ſubmit to the people as the kings had done, the kings were alſo made upon the ſame conditions, and equally obliged to perform them. SECT. 30.

The ſcripture is more clear in the caſe. The judges are ſaid to have been in power equal to kings; and I may perhaps acknowledge it, with relation to the deuteronomical king, or ſuch as the people might have choſen without offending God. The Gileadites made a covenant with Jephtha, that he ſhould be their head and captain: he would not return to his country till they had done it. This was performed ſolemnly before the Lord in Miſpeth, and all Iſrael followed them. They might therefore make a covenant with their kings, for the difference of name does not increaſe or diminiſh the right. Nay, they were in duty obliged to do it: the words of the xviith of Deuter. "He ſhall not multiply wives, &c. that his heart be not "lifted up above his brethren," can have no other ſignification, than that they ſhould take care he did it not, or, as Joſephus ſays, hinder him if he attempt it; for the law was not given to the king who was not, but to thoſe who might make him if they thought fit. In purſuance of this law——

[The reſt of this chapter is wanting in the original manuſcript.]

* Ne quid detrimenti reſpubl. accipiat.

† Qui ſolus plus quam tua dictatura poteſt polletq; cui & reges ceſſere, &c. T. Liv. l. viii.

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CHAP. III.

SECT. I.

Kings, not being fathers of their people, nor excelling all others in virtue, can have no other juſt power than what the laws give; nor any title to the privileges of the Lord's anointed.

HAVING proved, that the right of fathers is from nature, and incommunicable, it muſt follow, that every man doth perpetually owe all love, reſpect, ſervice, and obedience, to him that did beget, nouriſh, and educate him, and to no other under that name. No man therefore can claim the right of a father over any, except one that is ſo; no man can ſerve two maſters; the extent and perpetuity of the duty which every man owes to his father, renders it impoſſible for him to owe the ſame to any other: this right of father cannot be devolved to the heir of the father, otherwiſe than as every ſon by the law of nature is heir to his father, and has the ſame right of commanding his children, as his father had of commanding him when he was a child: no man can owe to his brother that which he owed to his father, becauſe he cannot receive that from him which he had from his father; but the utmoſt of all abſurdities that can enter into the heart of man is, for one to exact the rights due to a father, who has no other title than force and uſurpation, it being no leſs than to ſay, that I owe as much to one who has done me the greateſt of all injuries, as to him who has conferred upon me the greateſt benefits: or, which is yet worſe, if poſſible, that as theſe uſurpations cannot be made but by robbing, ſpoiling, impriſoning, or killing, the perſon in poſſeſſion; that duty, which by the eternal law of nature I owe to my father, ſhould oblige me to pay the ſame veneration, obedience, and ſervice, to the man that has ſpoiled, impriſoned, or killed, my father, as I owed to him; or that the ſame law, which obliged me to obey and defend my father, becauſe he was ſo, ſhould oblige me to obey and defend his enemy, becauſe he has impriſoned or killed him; and not only to paſs over the law of God, which makes me the avenger of my father's blood, but to reward his murderer with the rights that comprehend all that is moſt tender and ſacred in nature, and to look upon one that has done me the greateſt of all injuſtices and injuries, as upon him to whom I owe my birth and education. This being evident to all thoſe who have any meaſure of common ſenſe, I ſuppoſe it may be ſafely concluded, that what right ſoever a father may have over his family, it cannot relate to that which a king has over his people; unleſs he, like the man in the iſland of Pines, mentioned before, be alſo the father of them all. That which is abſolutely unlike in manner and ſubſtance, inſtitution and exerciſe, muſt be unlike

in

in all reſpects; and the concluſions, which have their ſtrength from ſimilitude and parity, can have none when there is not the leaſt ſimilitude of either. And tho' it were true, that fathers are held by no contracts (which generally it is not; for when the ſon is of age, and does ſomething for the father to which he is not obliged, or gives him that which he is not bound to give, ſuppoſe an inheritance received from a friend, goods of his own acquiſition, or that he be emancipated, all good laws look upon thoſe things as a valuable conſideration, and give the ſame force to contracts thereupon made, as to thoſe that paſs between ſtrangers), it could have no relation to our queſtion concerning kings. One principal reaſon, that renders it very little neceſſary by the laws of nations, to reſtrain the power of parents over their children, is, becauſe it is preſumed they cannot abuſe it: they are thought to have a law in their bowels, obliging them more ſtrictly to ſeek their good, than all thoſe that can be laid upon them by another power; and yet if they depart from it, ſo as inhumanly to abuſe or kill their children, they are puniſhed with as much rigour, and accounted more unpardonable than other men. Ignorance or wilful malice perſuading our author to paſs over all this, he boldly affirms, "That the father "of a family governs it by no other law than his own will;" and from thence infers, that the condition of kings is the ſame. He would ſeem to ſoften the harſhneſs of this propoſition by ſaying, "That a king is "always tied by the ſame law of nature to keep this general ground, "that the ſafety of the kingdom is his chief law." But he ſpoils it in the next page, by aſſerting, "That it is not right for kings to do in-"jury; but it is right, that they go unpuniſhed by the people, if they do; "ſo that in this point it is all one, whether Samuel deſcribe a king or "a tyrant; for patient obedience is due unto both; no remedy in the "text againſt tyrants, but crying and praying unto God in that day." In this our author, according to the cuſtom of theatres, runs round in a circle, pretends to grant that which is true, and then by a lye endeavours to deſtroy all again. Kings by the law of nature are obliged to ſeek chiefly the good of the kingdom; but there is no remedy, if they do it not; which is no leſs than to put all upon the conſcience of thoſe who manifeſtly have none. But if God has appointed, that all other tranſgreſſions of the laws of nature, by which a private man receives damage, ſhould be puniſhed in this world, notwithſtanding the right reſerved to himſelf of a future puniſhment; I deſire to know, why this alone, by which whole nations may be, and often are deſtroyed, ſhould eſcape the hands of juſtice? If he preſume no law to be neceſſary in this caſe, becauſe it cannot be thought, that kings will trangreſs, as there was no law in Sparta againſt adultery, becauſe it was not thought poſſible for men educated under that diſcipline to be guilty of ſuch a crime; and as divers nations left a liberty to fathers to diſpoſe of their children as they thought fit, becauſe it could not be imagined, that any one would abuſe that power; he ought to remember, that the Spartans were miſtaken, and for want of that law, which they eſteemed uſeleſs, adulteries became as common there as in any part of the world: and the other error being almoſt every-where diſcovered, the laws of all civilized nations make it capital for a man to kill his children; and give redreſs to children,

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if they ſuffer any other extreme injuries from their parents, as well as other perſons. But tho' this were not ſo, it would be nothing to our queſtion, unleſs it could be ſuppoſed, that whoever gets the power of a nation into his hands, muſt be immediately filled with the ſame tenderneſs of affection to the people under him, as a father naturally has towards the children he hath begotten. He that is of this opinion, may examine the lives of Herod, Tiberius, Caligula, and ſome later princes of like inclinations, and conclude it to be true, if he find, that the whole courſe of their actions, in relation to the people under them, do well ſuit with the tender and ſacred name of father; and altogether falſe, if he find the contrary. But as every man that conſiders what has been, or ſees what is every day done in the world, muſt confeſs, that princes, or thoſe who govern them, do moſt frequently ſo utterly reject all thoughts of tenderneſs and piety towards the nations under them, as rather to ſeek what can be drawn from them, than what ſhould be done for them, and ſometimes become their moſt bitter and public enemies; it is ridiculous to make the ſafety of nations to depend upon a ſuppoſition, which by daily experience we find to be falſe; and impious, to prefer the luſts of a man, who violates the moſt ſacred laws of nature, by deſtroying thoſe he is obliged to preſerve, before the welfare of that people, for whoſe good he is made to be what he is, if there be any thing of juſtice in the power he exerciſes.

Our author fooliſhly thinks to cover the enormity of this nonſenſe, by turning "ſalutem populi" into "ſalutem regni:" for tho' "regnum" may be taken for the power of commanding, in which ſenſe the preſervation of it is the uſual object of the care of princes; yet it does more rightly ſignify the body of that nation, which is governed by a king. And therefore, if the maxim be true, as he acknowledges it to be, then "ſalus populi eſt lex ſuprema;" and the firſt thing we are to inquire is, whether the government of this or that man do conduce to the accompliſhment of that ſupreme law, or not; for otherwiſe it ought to have been ſaid, "ſalus regis eſt lex ſuprema," which certainly never entered into the head of a wiſer or better man than Filmer.

His reaſons are as good as his doctrine: "No law," ſays he, "can be "impoſed on kings, becauſe there were kings, before any laws were "made." This would not follow, tho' the propoſition were true; for they, who impoſed no laws upon the kings they at firſt made, from an opinion of their virtue, as in thoſe called by the antients "heroum "regna," might lay reſtrictions upon them, when they were found not to anſwer the expectation conceived of them, or that their ſucceſſors degenerated from their virtue. Other nations alſo, being inſtructed by the ill effects of an unlimited power given to ſome kings (if there was any ſuch), might wiſely avoid the rock upon which their neighbours had ſplit, and juſtly moderate that power, which had been pernicious to others. However, a propoſition of ſo great importance ought to be proved; but that being hard, and perhaps impoſſible, becauſe the original of nations is almoſt wholly unknown to us, and their practice ſeems to have been ſo various, that what is true in one, is not ſo in another; he is pleaſed only to affirm it, without giving the leaſt ſhadow of a reaſon to perſuade us to believe him. This might juſtify me, if I ſhould reject

reject his aſſertion as a thing ſaid gratis: but I may ſafely go a ſtep farther, and affirm, that men lived under laws before there were any kings; which cannot be denied, if ſuch a power neceſſarily belongs to kings as he aſcribes to them. For Nimrod, who eſtabliſhed his kingdom in Babel, is the firſt who by the ſcripture is ſaid to have been a mighty one in the earth. He was therefore the firſt king, or kings were not mighty; and he being the firſt king, mankind muſt have lived till his time without laws, or elſe laws were made before kings. To ſay that there was then no law, is in many reſpects moſt abſurd; for the nature of man cannot be without it, and the violences committed by ill men before the flood, could not have been blamed if there had been no law; for that which is not, cannot be tranſgreſſed. Cain could not have feared, that every man who met him would ſlay him, if there had not been a law to ſlay him that had ſlain another. But in this caſe the ſcripture is clear, at leaſt from the time that Noah went out of the ark; for God then gave him a law ſufficient for the ſtate of things at that time, if all violence was prohibited under the name of ſhedding blood, tho' not under the ſame penalty as murder. But penal laws being in vain, if there be none to execute them, ſuch as know God does nothing in vain, may conclude, that he who gave this law, did appoint ſome way for its execution, tho' unknown to us. There is therefore a law not given by kings, but laid upon ſuch as ſhould be kings, as well as on any other perſons, by one who is above them; and perhaps I may ſay, that this law preſſeth moſt upon them, becauſe they who have moſt power, do moſt frequently break out into acts of violence, and moſt of all diſdain to have their will reſtrained: and he that will exempt kings from this law, muſt either find, that they are excepted in the text, or that God who gave it has not a power over them. SECT. 1.

Moreover, it has been proved at the beginning of this treatiſe, that the firſt kings were of the accurſed race, and reigned over the accurſed nations, whilſt the holy ſeed had none. If therefore there was no law where there was no king, the accurſed poſterity of Ham had laws, when the bleſſed deſcendents of Shem had none, which is moſt abſurd; the word "outlaw," or "lawleſs," being often given to the wicked, but never to the juſt and righteous.

The impious folly of ſuch aſſertions goes farther than our author perhaps ſuſpected: for if there be no law where there is no king, the Iſraelites had no law till Saul was made king, and then the law they had was from him. They had no king before, for they aſked one. They could not have aſked one of Samuel, if he had been a king. He had not been offended, and God had not imputed to them the ſin of rejecting him, if they had aſked that only which he had ſet over them. If Samuel were not king, Moſes, Joſhua, and the other judges, were not kings; for they were no more than he. They had therefore no king, and conſequently, if our author ſay true, no law. If they had no law till Saul was king, they never had any; for he gave them none; and the prophets were to blame for denouncing judgments againſt them for receding from, or breaking their law; if they had none. He cannot ſay that Samuel gave them a law; for that which he wrote in a book, and laid up before the Lord, was not a law

1 Sam. x.

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Our author's aſſertion, upon which all his doctrine is grounded, "That there is no nation that allows children any action or remedy "for being unjuſtly governed," is as impudently falſe as any other propoſed by him: for tho' a child will not be heard that complains of the rod; yet our own law gives relief to children againſt their fathers, as well as againſt other perſons that do them injuries, upon which we ſee many ill effects, and I do rather relate than commend the practice. In other places the law gives relief againſt the extravagancies of which fathers may be guilty in relation to their children, tho' not to that exceſs as to bring them ſo near to an equality as in England: they cannot impriſon, ſell, or kill, their children, without expoſing themſelves to the ſame puniſhments with other men; and if they take their eſtates from them, the law is open, and gives relief againſt them: but, on the other ſide, children are puniſhed with death, if they ſtrike or outrageouſly abuſe their parents; which is not ſo with us.

Now, if the laws of nations take ſuch care to preſerve private men from being too hardly uſed by their true and natural fathers, who have ſuch a love and tenderneſs for them in their own blood, that the moſt wicked and barbarous do much more frequently commit crimes for them than againſt them; how much more neceſſary is it to reſtrain the fury that kings, who at the beſt are but phantaſtical fathers, may exerciſe to the deſtruction of the whole people? It is a folly to ſay, that David, and ſome other kings, have had, or that all ſhould have a tenderneſs of affection towards their people as towards their children; for beſides that even the firſt propoſition is not acknowledged, and will be hardly verified in any one inſtance, there is a vaſt diſtance between what men ought to be, and what they are. Every man ought to be juſt, true, and charitable; and if they were ſo, laws would be of no uſe: but it were a madneſs to aboliſh them upon a ſuppoſition that they are ſo; or to leave them to a future puniſhment, which many do not believe, or not regard. I am not obliged to believe, that David loved every Iſraelite as well as his ſon Abſalom; but tho' he had, I could not from thence infer, that all kings do ſo, unleſs I were ſure, that all of them were as wiſe and virtuous as he.

But to come more cloſe to the matter: do we not know of many kings who have come to their power by the moſt wicked means that can enter into the heart of man, even by the moſt outrageous injuries done to the people, ſometimes by a foreign aid? As kings were by the power of the Romans, impoſed upon the Britons, that they might waſte the forces, and break the ſpirits of that fierce people. This Tacitus acknowledges, and ſays, "That amongſt other inſtruments

Inter inſtrumenta ſervitutis reges habuere. Tacit.

"of

" of enſlaving nations, they impoſed kings upon them." The Medices were made maſters of Florence by the force of Charles the Fifth's army. Sometimes, by a corrupt party in their own country, they have deſtroyed the beſt men, and ſubdued the reſt; as Agathocles, Dionyſius, and Cæſar, did at Rome and Syracuſe. Others taking upon them to defend a people, have turned the arms, with which they were entruſted, againſt their own maſters; as Franceſco Sforza, who, being choſen by thoſe of Milan to be their general againſt the Venetians, made peace with them, and by their aſſiſtance made himſelf prince, or, in our author's phraſe, father of that great city. If theſe be acts of tenderneſs, love, juſtice, and charity, thoſe who commit them may well think they have gained the affections of their people, and grow to love thoſe from whom they fear nothing, and by whom they think they are loved. But if, on the other hand, they know they have attained to their greatneſs by the worſt of all villainies, and that they are on that account become the object of the public hatred, they can do no leſs, than hate and fear thoſe by whom they know themſelves to be hated. The Italians ordinarily ſay, that he who does an injury never pardons, becauſe he thinks he is never pardoned: but he that enſlaves and oppreſſes a people does an injury, which can never be pardoned, and therefore fears it will be revenged.

SECT. I.

Chi fa injuria non perdona mai.

Other princes, who come to their thrones by better ways, and are not contented with the power that the law allows, draw the ſame hatred upon themſelves, when they endeavour by force or fraud to enlarge it; and muſt neceſſarily fear and hate their own people, as much as he, who by the ways before-mentioned has betrayed or ſubdued them. Our author makes nothing of this; but, taking it for granted, that it was all one whether Samuel ſpoke of a king or a tyrant, declares, that the ſame patient obedience is due to both; but, not being pleaſed to give any reaſon, why we ſhould believe him, I intend to offer ſome, why we ſhould not.

Firſt, there is nothing in the nature or inſtitution of monarchy, that obliges nations to bear the exorbitances of it, when it degenerates into tyranny.

In the ſecond place, we have no precept for it.

Thirdly, we have many approved examples, and occaſional particular commands to the contrary.

1. To the firſt: The point of paternity being explained; the duty of children to parents proved to proceed from the benefits received from them, and that the power over them, which at the firſt, ſeems to have been left at large, becauſe it was thought they would never abuſe it, has long ſince been much reſtrained in all civilized nations, and particularly in our own; we may conclude, that men are all made of the ſame paſte, and that one owes no more to another, than another to him, unleſs for ſome benefit received, or by virtue of ſome promiſe made. The duty ariſing from a benefit received, muſt be proportionable to it: that which grows from a promiſe, is determined by the promiſe or contract made, according to the true ſenſe and meaning of it. He therefore, that would know what the Babylonians, Hebrews, Athenians, or Romans, did owe to Nimrod, Saul, Theſeus, or

CHAP. III. Romulus, muſt inquire what benefits were received from them, or what was promiſed to them. It cannot be ſaid, that any thing was due to them for the ſake of their parents; they could have no prerogative by birth: Nimrod was the ſixth ſon of Cuſh, the ſon of Cham, who was the youngeſt ſon of Noah: his kingdom was erected, whilſt Noah, and his elder ſons Shem and Japhet, as well as Ham, Cuſh, and his elder ſons, were ſtill living. Saul was the ſon of Kiſh, a man of Benjamin, who was the youngeſt ſon of Jacob; and he was choſen in the moſt democratical way by lot amongſt the whole people. Theſeus, according to the cuſtom of the times, pretended to be the ſon of Neptune; and Rhea was ſo well pleaſed with the ſoldier, that had gotten her with child, that ſhe reſolved to think, or ſay, that Mars was the father of the children, that is to ſay, they were baſtards; and therefore, whatever was due to them, was upon their own perſonal account, without any regard to their progenitors. This muſt be meaſured according to what they did for thoſe nations before they were kings, or by the manner of their advancement. Nothing can be pretended before they were kings: Nimrod roſe up after the confuſion of languages, and the people, that underſtood the tongue he ſpoke, followed him; Saul was a young man unknown in Iſrael; Theſeus and Romulus had nothing to recommend them, before other Athenians and Romans, except the reputation of their valour; and the honours conferred upon them for that reaſon muſt proceed from expectation or hope, and not from gratitude or obligation. It muſt therefore proceed from the manner by which they came to be kings. He that neither is nor has any title to be a king, can come to be ſo only by force, or by conſent. If by force, he does not confer a benefit upon the people, but injures them in the moſt outrageous manner. If it be poſſible therefore, or reaſonable to imagine, that one man did ever ſubdue a multitude, he can no otherwiſe reſemble a father, than the worſt of all enemies, who does the greateſt miſchiefs, reſembles the beſt of all friends, who confers the moſt ineſtimable benefits; and conſequently does as juſtly deſerve the utmoſt effects of hatred, as the other does of love, reſpect, and ſervice. If by conſent, he who is raiſed from amongſt the people, and placed above his brethren, receives great honours and advantages, but confers none. The obligations of gratitude are on his ſide, and whatſoever he does in acknowledgment to his benefactors for their love to him, is no more than his duty; and he can demand no more from them, than what they think fit to add to the favours already received. If more be pretended, it muſt be by virtue of that contract, and can no otherwiſe be proved, than by producing it to be examined, that the true ſenſe, meaning, and intention of it, may be known.

This contract muſt be in form and ſubſtance according to a general rule given to all mankind, or ſuch as is left to the will of every nation. If a general one be pretended, it ought to be ſhewn, that, by inquiring into the contents, we may underſtand the force and extent of it. If this cannot be done, it may juſtly paſs for a fiction; no concluſion can be drawn from it; and we may be ſure, that what contracts ſoever have been made between nations and their kings, have been framed according to the will of thoſe nations; and con-

conſequently, how many ſoever they are, and whatſoever the ſenſe of any or all of them may be, they can oblige no man, except thoſe, or at the moſt the deſcendents of thoſe that made them. Whoever therefore would perſuade us, that one or more nations are, by virtue of thoſe contracts, bound to bear all the inſolences of tyrants, is obliged to ſhew, that by thoſe contracts they did for ever indefinitely bind themſelves ſo to do, how great ſoever they might be. SECT. I.

I may juſtly go a ſtep farther, and affirm, that if any ſuch ſhould appear in the world, the folly and turpitude of the thing would be a ſufficient evidence of the madneſs of thoſe that made it, and utterly deſtroy the contents of it: but no ſuch having been as yet produced, nor any reaſon given to perſuade a wiſe man that there has ever been any ſuch, at leaſt among civilized nations (for whom only we are concerned), it may be concluded there never was any; or if there were, they do not at all relate to our ſubject; and conſequently, that nations ſtill continue in their native liberty, and are no otherwiſe obliged to endure the inſolence of tyrants, than they, or each of them, may eſteem them tolerable.

2. To the ſecond: tho' the words of Samuel had implied a neceſſity incumbent upon the Hebrews to bear all the injuries that their kings ſhould do to them, it could no-way relate to us; for he does not ſpeak of all kings, but of ſuch as they had aſked, even ſuch as reigned over the ſlaviſh Aſiatics their neighbours, who are no leſs infamous in the world for their baſeneſs and cowardice, than deteſtable for their idolatry and vices. It was not a plot or trick of Samuel to keep the government in himſelf and family: ſuch ſcurrilous expreſſions or thoughts are fit only for Filmer, Heylin, and their diſciples: but the prophet, being troubled at the folly and wickedneſs of the people, who choſe rather to ſubject themſelves to the irregular will of a man, than to be governed by God, and his law, did, by the immediate command of God, declare to them what would be the event of their fury; that ſince they would be like to their neighbours in ſin and folly, he told them they ſhould be like to them in ſhame and miſery; ſince they deſired to caſt off the thing that was good, they ſhould ſuffer evil as the product of their own counſels; and that when they ſhould cry to the Lord, from a ſenſe of their miſeries, he does not tell them, as our author falſly ſays, they ſhould have no other remedy againſt tyrants but crying and praying, but that their cries and prayers ſhould not be heard. It was juſt, that when they had rejected God, he ſhould reject them, and leave them under the weight of the calamities they had brought upon themſelves. In all other caſes God had ever ſaid, that when his people returned to him, he would hear and ſave them. When they cried, by reaſon of the oppreſſions they ſuffered under the Egyptians, Canaanites, Midianites, Philiſtines, and others, tho' their crimes had deſerved them all, yet God heard, and relieved them. But when they meditated this final defection from his law, and rejection of his government, God ſeemed to change his nature, and forget to be gracious: "When ye ſhall cry "to me by reaſon of your king, I will not hear you." This was the

ſtrongeſt dehortation from their wicked intention that can be imagined; but being not enough to reclaim them, they anſwered, "Nay, "but we will have a king." They were like to their neighbours in folly and vice, and would be like to them in government; which brought all the calamities upon them that the others ſuffered. But I know not what concluſion can be drawn from hence in favour of our author's doctrine, unleſs all nations are obliged furiouſly to run into the ſame crimes with the Iſraelites, or to take upon themſelves the ſame puniſhment, tho' they do not commit the ſame crimes.

If this was not a precept to the Iſraelites, inſtructing them what they ſhould do, but a denunciation of what they ſhould ſuffer for the evil which they had committed, the Old Teſtament will afford none; and I hope in due time to anſwer ſuch as he alledges from the New. Nay, we may conclude there can be none there, becauſe, being dictated by the ſame ſpirit, which is always uniform, and conſtant to itſelf, it could not agree with the xviith of Deuteronomy, which ſo extremely reſtrains ſuch a king as God allowed, as not to ſuffer him in any manner to raiſe his heart above his brethren; and was ſaid in vain, if at the ſame time it gave him a power which might not be reſiſted, or forbad others to reſiſt him if he would not obey the law.

3. To the third: whatſoever was done by the command of God againſt Pharaoh king of Egypt, and againſt the kings of the Cananites, Midianites, Moabites, Edomites, Amorites, or Philiſtines, by Moſes, Joſhua, Ehud, Barak, Gideon, Sampſon, Jephtha, Samuel, and the reſt of the judges, comes expreſly under the particular precepts and examples promiſed by me, to ſhew, that God had occaſionally commanded, and his ſervants executed his commands in reſiſting and deſtroying the perſons of kings, who were their own kings alſo, if poſſeſſion was only to be regarded. And tho' this be ſufficient to overthrow our author's doctrine; "that we are not to examine the "titles of kings, whether they be from uſurpation, or any other means, "but only to look upon the power;" yet they who ſeek truth, ought not to content themſelves merely with victory; or to eſteem that a victory, which is obtained by what the ſchools call "argumentum ad "hominem," grounded upon a falſe propoſition, and is of no force except againſt thoſe who are ſo ill adviſed to advance it. Therefore laying aſide the advantages that may be juſtly taken againſt Filmer, for the folly of aſſerting the ſame right to be in a uſurper, as in a lawful prince; and confeſſing, that tho' ſuch as have no title, may and ought to be ſuppreſſed as enemies and robbers, when reſpect and obedience is due to thoſe who are rightly inſtituted; I ſay, that none can be claimed by a prince lawfully inſtituted, if he aſſume to himſelf a power which is not granted to him by the law of his inſtitution, becauſe, as Grotius ſays, "his legal power does not extend ſo far;" or turn the power that is given him, to ends contrary to thoſe for which it was given, becauſe he thereby deſtroys it, and puts himſelf into the ſame condition as if it had never been. This is proved by the example of Saul; tho' the people ſinned grievouſly in aſking a king, yet God aſſenting to their demand, no prince was ever more ſolemnly

Quia eatenus non habet imperium. De jur. bel.

lemnly inſtituted than he. The people choſe him by lot from amongſt all the tribes, and he was placed in the throne by the general conſent of the whole nation: but he, turning his lawful power into tyranny, diſobeying the word of the prophet, ſlaying the prieſts, ſparing the Amalekites, and oppreſſing the innocent, overthrew his own right; and God declared the kingdom, which had been given him, under a conditional promiſe of perpetuity, to be intirely abrogated. This did not only give a right to the whole people of oppoſing him, but to every particular man; and upon this account David did not only fly from his fury, but reſiſted it. He made himſelf head of all the diſcontented perſons that would follow him: he had at firſt four, and afterwards ſix hundred men; he kept theſe in arms againſt Saul, and lived upon the country; and reſolved to deſtroy Nabal, with all his houſe, only for refuſing to ſend proviſions for his men. Finding himſelf weak and unſafe, he went to Achiſh the Philiſtine, and offered his ſervice even againſt Iſrael. This was never reputed a ſin in David, or in thoſe that followed him, by any except the wicked court-flatterer Doeg the Edomite, and the drunken fool Nabal, who is ſaid to have been a man of Belial. SECT. I.

If it be objected, that this was rather a flight than a war, inaſmuch as he neither killed Saul nor his men, or that he made war as a king anointed by Samuel; I anſwer, that he who had ſix hundred men, and entertained as many as came to him, ſufficiently ſhewed his intention rather to reſiſt than to fly: and no other reaſon can be given why he did not farther purſue that intention, than that he had no greater power: and he who arms ſix hundred men againſt his prince, when he can have no more, can no more be ſaid to obey patiently, than if he had ſo many hundreds of thouſands. This holds, tho' he kill no man; for that is not the war, but the manner of making it: and it were as abſurd to ſay, David made no war, becauſe he killed no men, as that Charles the Eighth made no war in Italy, becauſe Guicciardin ſays, he conquered Naples without breaking a lance. But as David's ſtrength increaſed, he grew to be leſs ſparing of blood. Thoſe who ſay, kings never die, but that the right is immediately transferred to the next heirs, cannot deny that Iſhboſheth inherited the right of Saul, and that David had no other right of making war againſt him, than againſt Saul, unleſs it were conferred upon him by the tribe of Judah, that made him king. If this be true, it muſt be confeſſed, that not only a whole people, but a part of them, may at their own pleaſure abrogate a kingdom, tho' never ſo well eſtabliſhed by common conſent; for none was ever more ſolemnly inſtituted than that of Saul; and few ſubjects have more ſtrongly obliged themſelves to be obedient. If it be not true, the example of Nabal is to be followed; and David, tho' guided by the Spirit of God, deſerves to be condemned as a fellow that roſe up againſt his maſter.

If to elude this it be ſaid, that God inſtituted and abrogated Saul's kingdom, and that David, to whom the right was tranſmitted, might therefore proceed againſt him and his heirs as private men; I anſwer, that if the obedience due to Saul proceeded from God's inſtitution, it can extend to none, but thoſe who are ſo peculiarly inſtituted and

CHAP. III. anointed by his command, and the hand of his prophet, which will be of little advantage to the kings, that can give no teſtimony of ſuch an inſtitution or unction; and an indiſputable right will remain to every nation of abrogating the kingdoms which are inſtituted by and for themſelves. But as David did reſiſt the authority of Saul and Iſhboſheth, without aſſuming the power of a king, tho' deſigned by God, and anointed by the prophet, till he was made king of Judah by that tribe; or arrogating to himſelf a power over the other tribes, till he was made king by them, and had entered into a covenant with them; it is much more certain, that the perſons and authority of ill kings, who have no title to the privileges due to Saul by virtue of his inſtitution, may be juſtly reſiſted; which is as much as is neceſſary to my purpoſe.

1 Sam. xxvi. Object. But David's heart ſmote him, when he had cut off the ſkirt of Saul's garment, and he would not ſuffer Abiſhai to kill him. This might be of ſome force, if it were pretended, that every man was obliged to kill an ill king, whenſoever he could do it, which I think no man ever did ſay; and no man having ever affirmed it, no more can be concluded than is confeſſed by all. But how is it poſſible, that a man of a generous ſpirit, like to David, could ſee a great and valiant king, choſen from amongſt all the tribes of Iſrael, anointed by the command of God, and the hand of the prophet, famous for victories obtained againſt the enemies of Iſrael, and a wonderful deliverance thereby purchaſed to that people, caſt at his feet to receive life or death from the hand of one whom he had ſo furiouſly perſecuted, and from whom he leaſt deſerved, and could leaſt expect mercy, without extraordinary commotion of mind; moſt eſpecially when Abiſhai, who ſaw all that he did, and thereby ought beſt to have known his thoughts, expreſſed ſo great a readineſs to kill him? This could not but make him reflect upon the inſtability of all that ſeemed to be moſt glorious in men, and ſhew him, that if Saul, who had been named even among the prophets, and aſſiſted in an extraordinary manner to accompliſh ſuch great things, was ſo abandoned and given over to fury, miſery, and ſhame, he that ſeemed to be moſt firmly eſtabliſhed ought to take care leſt he ſhould fall.

Surely theſe things are neither to be thought ſtrange in relation to Saul, who was God's anointed, nor communicable to ſuch as are not: ſome may ſuppoſe he was king by virtue of God's unction (tho' if that were true, he had never been choſen and made king by the people); but it were madneſs to think, he became God's anointed by being king: for if that were ſo, the ſame right and title would belong to every king, even to thoſe, who by his command were accurſed and deſtroyed by his ſervants Moſes, Joſhua, and Samuel. The ſame men, at the ſame time, and in the ſame ſenſe, would be both his anointed and accurſed, loved and deteſted by him; and the moſt ſacred privileges made to extend to the worſt of his enemies.

Again; the war made by David, was not upon the account of being king, as anointed by Samuel, but upon the common natural right of defending himſelf againſt the violence and fury of a wicked man; he truſted to the promiſe, "that he ſhould be king," but knew that as yet he was not ſo: and when Saul found he had ſpared his life, he ſaid,

ſaid, " I now know well, that thou ſhalt ſurely be king, and that the " kingdom of Iſrael ſhall ſurely be eſtabliſhed in thy hand ;" not that it was already. Nay David himſelf was ſo far from taking upon him to be king, till the tribe of Judah had choſen him, that he often acknowledged Saul to be his lord. When Baanah and Rechab brought the head of Iſhboſheth to him, he commanded them to be ſlain ; " becauſe they had killed a righteous man upon his bed, in his " own houſe ;" which he could not have ſaid, if Iſhboſheth had unjuſtly detained from him the ten tribes, and that he had a right to reign over them before they had choſen him. The word of God did not make him king, but only foretold, that he ſhould be king ; and by ſuch ways as he pleaſed prepared the hearts of the people to ſet him up ; and till the time deſigned by God for that work was accompliſhed, he pretended to no other authority, than what the ſix hundred men who firſt followed him, afterwards the tribe of Judah, and at laſt all the reſt of the people, conferred upon him.

SECT. I.

1 Sam. xxiv.

2 Sam. iv.

I no way defend Abſalom's revolt ; he was wicked, and acted wickedly ; but after his death no man was ever blamed or queſtioned for ſiding with him : and Amaſa, who commanded his army, is repreſented in ſcripture as a good man, even David ſaying, that Joab, by ſlaying Abner and Amaſa, had killed " two men who were better " than himſelf ;" which could not have been, unleſs the people had a right of looking into matters of government, and of redreſſing abuſes : tho', being deceived by Abſalom, they ſo far erred, as to prefer him, who was in all reſpects wicked, before the man, who, except in the matter of Uriah, is ſaid to be after God's own heart. This right was acknowledged by David himſelf, when he commanded Huſhai to ſay to Abſalom, " I will be thy ſervant O king ;" and by Huſhai in the following chapter, " Nay, but whom the Lord, and " his people, and all the men of Iſrael chuſe, his will I be, and with " him will I abide :" which could have no ſenſe in it, unleſs the people had a right of chuſing, and that the choice in which they generally concurred, was eſteemed to be from God.

2 Sam. xx.

2 Kings.

But if Saul, who was made king by the whole people, and anointed by the command of God, might be lawfully reſiſted when he departed from the law of his inſtitution ; it cannot be doubted, that any other, for the like reaſon, may be reſiſted. If David, tho' deſigned by God to be king, and anointed by the hand of the prophet, was not king till the people had choſen him, and he had made a covenant with them ; it will, if I miſtake not, be hard to find a man who can claim a right which is not originally from them. And if the people of Iſrael could erect, and pull down, inſtitute, abrogate, or transfer to other perſons or families, kingdoms more firmly eſtabliſhed than any we know, the ſame right cannot be denied to other nations.

SECT.

SECT. II.

The kings of Iſrael and Judah were under a law not ſafely to be tranſgreſſed.

OUR author might be pardoned if he only vented his own follies; but he aggravates his own crime, by imputing them to men of more credit; and tho' I cannot look upon Sir Walter Raleigh as a very good interpreter of ſcripture, he had too much underſtanding to ſay, "That if practice declare the greatneſs of authority, even "the beſt kings of Iſrael and Judah were not tied to any law, but "they did whatſoever they pleaſed in the greateſt matters;" for there is no ſenſe in thoſe words. "If practice declares the greatneſs of "authority, even the beſt were tied to no law," ſignifies nothing, for practice cannot declare the greatneſs of authority. Peter the Cruel of Caſtile, and Chriſtiern the Second of Denmark, killed whom they pleaſed; but no man ever thought they had therefore a right to do ſo: and if there was a law, all were tied by it, and the beſt were leſs likely to break it than the worſt. But if Sir Walter Raleigh's opinion, which he calls a conjecture, be taken, there was ſo great a difference between the kings of Iſrael and Judah, that as to their general proceedings in point of power, hardly any thing can be ſaid which may rightly be applied to both; and he there endeavours to ſhew, that the reaſon why the ten tribes did not return to the houſe of David, after the deſtruction of the houſes of Jeroboam and Baaſha, was, becauſe they would not endure a power ſo abſolute as that which was exerciſed by the houſe of David. If he has therefore any-where ſaid, that the kings did what they pleaſed, it muſt be in the ſenſe that Moſes Maimonides ſays, the kings of Iſrael committed many extravagancies, becauſe they were * "inſolent, impious, and "deſpiſers of the law." But whatſoever Sir Walter Raleigh may ſay (for I do not remember his words, and have not leiſure to ſeek whether any ſuch are found in his books), it is moſt evident, that they did not what they pleaſed. The tribes, that did not ſubmit to David, nor crown him till they thought fit, and then made a covenant with him, took care it might be obſerved, whether he would or not. Abſalom's rebellion, followed by almoſt all Iſrael, was a terrible check to his will. That of Sheba, the ſon of Bichri, was like to have been worſe, if it had not been ſuppreſſed by Joab's diligence; and David often confeſſed the ſons of Zeruiah were too hard for him. Solomon indeed, overthrowing the law given by Moſes, multiplying gold and ſilver, wives and horſes, introducing idolatry, and lifting up his heart above his brethren, did what he pleaſed; but Rehoboam paid for all: the ten tribes revolted from him, by reaſon of the heavy burdens laid upon them; ſtoned Adoram, who was ſent to levy the tributes, and ſet up Jeroboam, who, as Sir Walter Raleigh ſays in the place before cited, had no other title than the courteſy of the people, and

2 l. hiſt. cap. 19.

* Quia ſuperbi erant corde, impii, & ſpretores legis. Mor. Nevoch.

and utterly rejected the houſe of David. If practice therefore declares a right, the practice of the people to avenge the injuries they ſuffered from their kings, as ſoon as they found a man fit to be their leader, ſhews they had a right of doing it. SECT. 2.

It is true, the beſt of the kings, with Moſes, Joſhua, and Samuel, may in one ſenſe be ſaid to have done what they pleaſed, becauſe they deſired to do that only which was good. But this will hardly be brought to confer a right upon all kings: and I deny, that even the kings of Judah did what they pleaſed, or that it were any thing to our queſtion, if they did. Zedekiah profeſſed to the great men (that is, to the ſanhedrin), "that without them he could do nothing." When Amaziah, by his folly, had brought a great ſlaughter upon the tribe of Judah, they conſpired againſt him in public council: whereupon he fled to Lachiſh, and they, purſuing him thither, killed him, avowed the fact, and it was neither queſtioned, nor blamed: which examples agree with the paraphraſe of Joſephus on Deut. xvii. "He ſhall do "nothing without the conſent of the ſanhedrin; and if he attempt "it, they ſhall hinder him." This was the law of God, not to be abrogated by man; a law of liberty directly oppoſite to the neceſſity of ſubmitting to the will of a man. This was a gift beſtowed by God upon his children and people; whereas ſlavery was a great part of the curſe denounced againſt Ham for his wickedneſs, and perpetually incumbent upon his poſterity. The great ſanhedrin were conſtituted judges, as Grotius ſays, moſt particularly of ſuch matters as concerned their kings; and Maimonides affirms, that the kings were judged by them: the diſtribution of the power to the inferior ſanhedrins, in every tribe and city, with the right of calling the people together in general aſſemblies as often as occaſion required, were the foundations of their liberty; and, being added to the law of the kingdom, preſcribed in the xviith of Deuteronomy (if they ſhould think fit to have a king), eſtabliſhed the freedom of that people upon a ſolid foundation. And tho' they in their fury did in a great meaſure wave the benefits God had beſtowed upon them; yet there was enough left to reſtrain the luſts of their kings. Ahab did not treat with Naboth, as with a ſervant, whoſe perſon and eſtate depended upon his will; and does not ſeem to have been ſo tender-hearted to grieve much for his refuſal, if by virtue of his royal authority he could have taken away his vineyard, and his life: but, that failing, he had no other way of accompliſhing his deſign, than by the fraud of his accurſed wife, and the perfidious wretches ſhe employed. And no better proof, that it did fail, can reaſonably be required, than that he was obliged to have recourſe to ſuch ſordid, odious, and dangerous remedies: but we are furniſhed with one, that is more unqueſtionable; "Haſt thou killed, and alſo taken poſſeſſion? In the place where dogs "licked the blood of Naboth, ſhall they lick thy blood, even thine." This ſhews, that the kings were not only under a law, but under a law of equality with the reſt of the people, even that of retaliation. He had raiſed his heart above his brethren: but God brought him down, and made him to ſuffer what he had done; he was in all reſpects wicked, but the juſtice of this ſentence conſiſted in the law he had broken, which could not have been, if he had been ſubject to none.

Jer. xxxviii.

2 Kings xiv.

Antiq. Jud.

1 Kings xxi.

CHAP. III. But as this retaliation was the ſum of all the judicial law given by God to his people, the ſentence pronounced againſt Ahab, in conformity to it, and the execution committed to Jehu, ſhews, that the kings were no leſs obliged to perform the law, than other men, tho' they were not ſo eaſily puniſhed for tranſgreſſing it, as others were; and, if many of them did eſcape, it perfectly agrees with what had been foretold by Samuel.

SECT. III.

Samuel did not deſcribe to the Iſraelites the glory of a free monarchy; but the evils the people ſhould ſuffer, that he might divert them from deſiring a king.

THO' no reſtraint had been put upon the luſts of the Hebrew kings, it could be no prejudice to any other nation. They deflected from the law of God: and, rejecting him, that he ſhould reign over them no longer, they fell into that miſery, which could affect none, but thoſe who enjoy the ſame bleſſings, and with the ſame fury deſpiſe them. If their kings had more power than conſiſted with their welfare, they gave it, and God renounces the inſtitution of * ſuch. He gave them a law of liberty; and if they fell into the ſhame and miſery, that accompanies ſlavery, it was their own work. They were not obliged to have any king; and could not without a crime have any but one, who muſt not raiſe his heart above the reſt of them. This was taught by Moſes: and Samuel, who ſpoke by the ſame ſpirit, could not contradict him; and in telling the people, what ſuch a king as they deſired would do when he ſhould be eſtabliſhed, he did announce to them the miſery they would bring upon themſelves, by chuſing ſuch a one, as he had forbidden. This free monarchy, which our author thinks to be ſo majeſtically deſcribed, was not only diſpleaſing to the prophet, but declared by God to be a rejection of him, and inconſiſtent with his reign over them. This might have been ſufficient to divert any other people from their furious reſolution; but the prophet, farther enforcing his diſſuaſion, told them, that God (who had in all other caſes been their helper) would not hear them when they ſhould cry to him by reaſon of their king. This is the majeſtic deſcription of that free monarchy, with which our author is ſo much pleaſed: it was diſpleaſing to the prophet, hateful to God, an aggravation of all the crimes they had committed ſince they came out of Egypt, and that which would bring (as it did) moſt certain and irreparable deſtruction upon themſelves.

But it ſeems, the regal majeſty in that age was in its infancy, and little in compariſon of that, which we find deſcribed by Tacitus, Suetonius, and others, in later times. "He ſhall take your ſons," ſays Samuel, "and ſet them over his chariots, and your daughters to "make

* "Ye have choſen kings, but not by me; and princes, but I know them not." Hoſ.

" make them confectioners and cooks;" but the majeſty of the Roman emperors was carried to a higher pitch of glory. Ahab could not, without employing treachery and fraud, get a ſmall ſpot of ground for his money to make a garden of herbs: but Tiberius, Caligula, and Nero, killed whom they pleaſed, and took what they pleaſed of their eſtates. When they had ſatiated their cruelty and avarice, by the murders and confiſcations of the moſt eminent and beſt men, they commonly expoſed their children to the luſt of their ſlaves. If the power of doing evil be glorious, the utmoſt exceſs is its perfection; and it is pity, that Samuel knew no more of the effects produced by unreſtrained luſt, that he might have made the deſcription yet more majeſtic: and as nothing can be ſuffered by man beyond conſtupration, torments, and death, inſtead of ſuch trifles as he mentioned, he might have ſhewed them the effects of fury in its greateſt exaltation. SECT. 3.

If it be good for a nation to live under ſuch a power, why did not God of his own goodneſs inſtitute it? Did his wiſdom, and love to his people, fail? Or if he himſelf had not ſet up the beſt government over them, could he be diſpleaſed with them for aſking it? Did he ſeparate that nation from the reſt of mankind, to make their condition worſe than that of others? Or can they be ſaid to have ſinned and rejected God, when they deſired nothing but the government, which, by a perpetual ordinance, he had eſtabliſhed over all the nations of the world? Is not the law of nature a rule which he has given to things? and the law of man's nature, which is reaſon, an emanation of the divine wiſdom, or ſome footſteps of divine light remaining in us? Is it poſſible, that this, which is from God, can be contrary to his will; and can he be offended with thoſe who deſire to live in a conformity to that law? Or could it juſtly be ſaid, the people had choſen that which is not good, if nothing in government be good but what they choſe?

But as the worſt men delight in the worſt things, and fools are pleaſed with the moſt extreme abſurdities, our author not only gives the higheſt praiſes to that which bears ſo many marks of God's hatred; but after having ſaid, that Abraham, Iſaac, Jacob, and Moſes, were kings, he goes on, and ſays, " The Iſraelites begged a king of Samuel;" which had been impertinent, if the magiſtrates inſtituted by the law were kings: and tho' it might be a folly in them to aſk what they had already, it could be no ſin to deſire that which they enjoyed by the ordinance of God. If they were not kings, it follows, that the only government ſet up by God, amongſt men, wanted the principal part, even the head and foundation, from whence all the other parts have their action and being; that is, God's law is againſt God's law, and deſtroys itſelf.

But if God did neither by a general and perpetual ordinance eſtabliſh over all nations the monarchy which Samuel deſcribes, nor preſcribe it to his own people by a particular command, it was purely the people's creature, the production of their own fancy, conceived in wickedneſs, and brought forth in iniquity, an idol ſet up by themſelves to their own deſtruction, in imitation of their accurſed neighbours; and their reward was no better than the conceſſion of an impious

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impious petition, which is one of God's heavieſt judgments. Samuel's words are acknowledged by all interpreters, who were not malicious or mad, to be a diſſuaſion from their wicked purpoſe; not a deſcription of what a king might juſtly do by virtue of his office, but what thoſe who ſhould be ſet up againſt God, and his law, would do when they ſhould have the power in their hands: and I leave ſuch as have the underſtandings of men, and are not abandoned by God, to judge what influence this ought to have upon other nations, either as to obligation or imitation.

SECT. IV.

No people can be obliged to ſuffer from their kings what they have not a right to do.

OUR author's next work is to tell us, "That the ſcope of Samuel "was to teach the people a dutiful obedience to their king, even "in the things that they think miſchievous or inconvenient: for, by "telling them what the king would do, he indeed inſtructs them "what a ſubject muſt ſuffer; yet not ſo, that it is right for kings to "do injury; but it is right for them to go unpuniſhed by the people, "if they do it; ſo that in this point it is all one whether Samuel de-"ſcribe a king, or a tyrant." This is hard; but the concluſion is grounded upon nothing. There is no relation between a prediction, that a thing ſhall be attempted or done to me, and a precept, that I ſhall not defend myſelf, or puniſh the perſon that attempts or does it. If a prophet ſhould ſay, that a thief lay in the way to kill me, it might reaſonably perſuade me not to go, or to go in ſuch a manner as to be able to defend myſelf; but can no way oblige me to ſubmit to the violence that ſhall be offered, or my friends and children not to avenge my death if I fall; much leſs can other men be deprived of the natural right of defending themſelves by my imprudence or obſtinacy in not taking the warning given, whereby I might have preſerved my life. For every man has a right of reſiſting, ſome way or other, that which ought not to be done to him; and tho' human laws do not, in all caſes, make men judges and avengers of the injuries offered to them, I think there is none that does not juſtify the man who kills another that offers violence to him, if it appear, that the way preſcribed by the law, for the preſervation of the innocent, cannot be taken. This is not only true in the caſe of outrageous attempts to aſſaſſinate or rob upon the high-way, but in divers others of leſs moment. I knew a man who being appointed to keep his maſter's park, killed three men in one night, that came to deſtroy his deer; and putting himſelf into the hands of the magiſtrate, and confeſſing the fact, both in matter and manner, he was at the public aſſizes not only acquitted, but commended for having done his duty; and this, in a time when, it is well known, juſtice was ſeverely adminiſtred, and little favour expected by him or his maſter. Nay, all laws muſt fall, human ſocieties that ſubſiſt by them be diſſolved,

and all innocent perſons be expoſed to the violence of the moſt wicked, if men might not juſtly defend themſelves againſt injuſtice by their own natural right, when the ways preſcribed by public authority cannot be taken. SECT. 4.

Our author may perhaps ſay, this is true in all except the king: and I deſire to know why, if it be true in all except the king, it ſhould not be true in relation to him? Is it poſſible, that he who is inſtituted for the obtaining of juſtice, ſhould claim the liberty of doing injuſtice as a privilege? Were it not better for a people to be without law, than that a power ſhould be eſtabliſhed by law to commit all manner of violences with impunity? Did not David reſiſt thoſe of Saul? Did he not make himſelf head of the tribe of Judah, when they revolted againſt his ſon, and afterwards of the ten tribes, that rejected his poſterity? Did not the Iſraelites ſtone Adoram who collected the taxes, revolt from the houſe of David, ſet up Jeroboam; and did not the prophet ſay it was from the Lord? If it was from the Lord, was it not good? If it was good then, is it not ſo for ever? Did good proceed from one root then, and from another now? If God had avenged the blood of Naboth by fire from heaven, and deſtroyed the houſe of Ahab, as he did the two captains, and their men, who were ſent to apprehend Elijah, it might be ſaid, he reſerved that vengeance to himſelf; but he did it by the ſword of Jehu and the army (which was the people who had ſet him up) for an example to others.

But it is good to examine what this "dutiful obedience" is that our author mentions. Men uſually owe no more than they receive. It is hard to know what the Iſraelites owed to Saul, David, Jeroboam, Ahab, or any other king, whether good or bad, till they were made kings: and the act of the people by which ſo great a dignity was conferred, ſeems to have laid a duty upon them, who did receive more than they had to give: ſo that ſomething muſt be due from them unleſs it were releaſed by virtue of a covenant or promiſe made; and none could accrue to them from the people afterwards, unleſs from the merit of the perſon in rightly executing his office. If a covenant or promiſe be pretended, the nature and extent of the obligation can only be known by the contents expreſſed, or the true intention of it. If there be a general form of covenant ſet and agreed upon, to which all nations muſt ſubmit, it were good to know where it may be found, and by whoſe authority it is eſtabliſhed, and then we may examine the ſenſe of it. If no ſuch do appear, we may rationally look upon thoſe to be impoſtors who ſhould go about from thence to derive a right: and as that which does not appear, is as if it were not, we may juſtly conclude there is no other, or none that can have any effect, but ſuch as have been made by particular nations with their princes; which can be of no force or obligation to others, nor to themſelves, any farther than according to the true intention of thoſe that made them. There is no ſuch thing therefore as a dutiful obedience, or duty of being obedient, incumbent upon all nations by virtue of any covenant; nor upon any particular nation, unleſs it be expreſſed by a covenant: and whoever pretends to a right of taking our ſons and daughters, lands or goods, or to

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go unpuniſhed if he do, muſt ſhew, that theſe things are expreſſed or intended by the covenant.

But tho' nations, for the moſt part, owe nothing to kings, till they are kings, and that it can hardly be conceived, that any people did ever owe ſo much to a man, as might not be fully repaid by the honour and advantages of ſuch an advancement; yet it is poſſible, that when they are made kings, they may, by their good government, lay ſuch obligations upon their ſubjects, as ought to be recompenſed by obedience and ſervice. There is no mortal creature that deſerves ſo well from mankind, as a wiſe, valiant, diligent, and juſt, king, who as a father cheriſhes his people; as a ſhepherd feeds, defends, and is ready to lay down his life for his flock; who is a terror to evil-doers, and a praiſe to thoſe that do well. This is a glorious prerogative, and he who has it is happy. But before this can be adjudged to belong to all, it muſt be proved, that all have the virtues that deſerve it; and he that exacts the dutiful obedience that ariſes from them, muſt prove, that they are in him. He that does this, need not plead for impunity when he does injuries; for if he do them, he is not the man we ſpeak of: not being ſo, he can have no title to the duty, by human inſtitution or covenant; nor by divine law, ſince, as is already proved, God has neither eſtabliſhed kings over all nations by precept, nor recommended them by example, in ſetting them over his own people. He has not therefore done it at all; there is no ſuch thing in nature; and nations can owe nothing to kings merely as kings, but what they owe by the contract made with them.

As theſe contracts are made voluntarily, without any previous obligation, it is evident men make them in conſideration of their own good; and they can be of force no longer, than he with whom they are made perform his part in procuring it; and that if he turn the power which was given to him for the public good, to the public inconvenience and damage, he muſt neceſſarily loſe the benefit he was to receive by it. The word "think" is fooliſhly and affectedly put in by our author; for thoſe matters are very often ſo evident, that even the weakeſt know them. No great ſagacity is required to underſtand, that lewd, ſlothful, ignorant, falſe, unjuſt, covetous, and cruel princes, bring inconveniences and miſchiefs upon nations; and many of them are ſo evidently guilty of ſome or all theſe vices, that no man can be miſtaken in imputing them; and the utmoſt calamities may rationally be expected from them, unleſs a remedy be applied.

But, ſays he, Samuel by telling them "what the king would do, "inſtructs them what the ſubjects muſt ſuffer, and that it is right he "ſhould go unpuniſhed:" but, by his favour, Samuel ſays no ſuch thing; neither is it to be concluded, that becauſe a king will do wickedly, he muſt be ſuffered, any more than a private man, who ſhould take the ſame reſolution. But he told them, that "when they "ſhould cry to the Lord by reaſon of their king, he would not hear "them." This was as much as to ſay, their ruin was unavoidable; and that, having put the power into the hands of thoſe, who, inſtead of protecting, would oppreſs them; and thereby having provoked God againſt them, ſo as he would not hearken to their cries, they

could have no relief. But this was no ſecurity to the authors of their calamity. The houſes of Jeroboam, Baaſha, and Omri, eſcaped not unpuniſhed, tho' the people did not thereby recover their liberty. The kings had introduced a corruption that was inconſiſtent with it. But they who could not ſettle upon a right foundation to prevent future miſchiefs, could avenge ſuch as they had ſuffered, upon the heads of thoſe who had cauſed them, and frequently did it moſt ſeverely. The like befel the Romans, when, by the violence of tyranny, all good order was overthrown, good diſcipline extinguiſhed, and the people corrupted. Ill princes could be cut in pieces, and miſchiefs might be revenged, tho' not prevented. But it is not ſo every-where, nor at all times; and nothing is more irrational, than from one or a few examples to conclude a general neceſſity of future events. They alter according to circumſtances: and as ſome nations by deſtroying tyrants could not deſtroy tyranny; others in removing the tyrant, have cut up tyranny by the roots. This variety has been ſeen in the ſame nation at different times: the Romans recovered their liberty by expelling Tarquin; but remained ſlaves notwithſtanding the ſlaughter of Cæſar. Whilſt the body of the people was uncorrupted, they cured the evil wrought by the perſon, in taking him away. It was no hard matter to take the regal power, that by one man had been enjoyed for life, and to place it in the hands of two annual magiſtrates, whilſt the nobility and people were, according to the condition of that age, ſtrong, and ready to maintain it. But when the miſchief had taken deeper root; when the beſt part of the people had periſhed in the civil wars; when all their eminent men had fallen in battle, or by the proſcriptions; when their diſcipline was loſt, and virtue aboliſhed, the poor remains of the diſtreſſed people were brought under the power of a mercenary ſoldiery, and found no relief. When they killed one tyrant, they often made room for a worſe: it availed them nothing to cut off a rotten branch, whilſt the accurſed root remained, and ſent forth new ſprouts of the ſame nature to their deſtruction. Other generous nations have been ſubdued beyond a poſſibility of recovery; and thoſe that are naturally baſe, ſlide into the like miſery, without the impulſe of an exterior power. They are ſlaves by nature, and have neither the underſtanding nor courage that is required for the conſtitution and management of a government within themſelves. They can no more ſubſiſt without a maſter, than a flock without a ſhepherd. They have no comprehenſion of liberty, and can neither deſire the good they do not know, nor enjoy it if it were beſtowed upon them. They bear all burdens; and whatever they ſuffer, they have no other remedy or refuge, than in the mercy of their lord. But ſuch nations as are naturally ſtrong, ſtout, and of good underſtanding, whoſe vigour remains unbroken, manners uncorrupted, reputation unblemiſhed, and increaſing in numbers; who neither want men to make up ſuch armies as may defend them againſt foreign or domeſtic enemies, nor leaders to head them, do ordinarily ſet limits to their patience. They know how to preſerve their liberty, or to vindicate the violation of it; and the more patient

SECT. 4.

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SECT. V.

The miſchiefs ſuffered from wicked kings are ſuch as render it both reaſonable and juſt for all nations, that have virtue and power, to exert both in repelling them.

IF our author deſerve credit, we need not examine, whether nations have a right of reſiſting, or a reaſonable hope of ſucceeding in their endeavours to prevent or avenge the miſchiefs that are feared or ſuffered, for it is not worth their pains. "The inconveniences," ſays he, "and "miſeries which are reckoned up by Samuel, as belonging unto kingly "government, were not intolerable, but ſuch as have been and are ſtill "borne by the ſubjects free conſent from their princes. Nay, at this "day, and in this land, many tenants by their tenures are tied unto "the ſame ſubjection, even unto ſubordinate and inferior lords." He is an excellent advocate for kingly government, that accounts inconveniences and miſeries to be ſome of the eſſentials of it, which others eſteem to be only incidents. Tho' many princes are violent and wicked, yet ſome have been gentle and juſt: tho' many have brought miſery upon nations, ſome have been beneficial to them: and they who are eſteemed moſt ſevere againſt monarchy, think the evils that are often ſuffered under that form of government, proceed from the corruption of it, or deviation from the principle of its inſtitution; and that they are rather to be imputed to the vices of the perſon, than to the thing itſelf; but if our author ſpeak truth, it is univerſally and eternally naught, inconvenience and miſery belong to it.

He thinks to mend this, by ſaying, they are not intolerable: but what is intolerable, if inconveniences and miſeries be not? For what end can he think governments to have been eſtabliſhed, unleſs to prevent or remove inconveniences and miſeries; or how can that be called a government, which does not only permit, but cauſe them? What can incline nations to ſet up governments? Is it that they may ſuffer inconveniences, and be brought to miſery? or if it be to enjoy happineſs, how can that ſubſiſt under a government, which, not by accident, deflection, or corruption, but by a neceſſity inherent in itſelf, cauſes inconveniences and miſeries? If it be pretended, that no human conſtitution can be altogether free from inconveniences; I anſwer, that the beſt may to ſome degree fall into them, becauſe they may be corrupted; but evil and miſery can properly belong to none that is

* Ignoratque datos, ne quiſquam ſerviat, enſes. Lucan.

is not evil in its own nature. If Samuel deſerve credit, or may be thought to have ſpoken ſenſe, he could not have enumerated the evils, which he foreſaw the people ſhould ſuffer from their kings, nor ſay, that they ſhould cry to the Lord by reaſon of them, unleſs they were in themſelves grievous, and in compariſon greater than what they had ſuffered or known; ſince that would not have diverted them from their intention, but rather have confirmed them in it. And I leave it to our author to ſhew, why any people ſhould, for the pleaſure of one or a few men, erect or ſuffer that which brings more of evil with it than any other. SECT. 5.

Moreover, there is a great difference between that which nations ſometimes ſuffer under kings, and that which they willingly ſuffer; moſt eſpecially if our author's maxim be received, that all laws are the mandates of kings, and the ſubjects liberties and privileges no more than their gracious conceſſions; for how patient ſoever they are under the evils they ſuffer, it might reaſonably be believed they are ſo becauſe they know not how to help it: and this is certainly the caſe of too many places that are known to us. Whoever doubts of this, if he will not put himſelf to the trouble of going to Turky or Morocco, let him paſs only into Normandy, and aſk the naked, barefooted, and half-ſtarved people, whether they are willing to ſuffer the miſeries under which they groan; and whether the magnificence of Verſailles, and the pomp of their haughty maſter, do any way alleviate their calamities. If this alſo be a matter of too much pains, the wretches that come hither every day will inform him, that it is not by their own conſent they are deprived of all honours and offices in the commonwealth, even of thoſe, which, by a corrupt cuſtom, that had gained the force of a law, they had dearly bought; prohibited to exerciſe any trade; expoſed to the utmoſt effects of fraud and violence, if they refuſe to adore their maſter's idols. They will tell him, that it is not willingly they leave their lands and eſtates to ſeek a ſhelter in the moſt remote parts of the world; but becauſe they are under a force which they are not able to reſiſt; and becauſe one part of the nation, which is enriched with the ſpoils of the other, have fooliſhly contributed to lay a yoke upon them which they cannot break.

To what he ſays concerning tenures, I anſwer, no man in England owes any ſervice to his lord, unleſs by virtue of a contract made by himſelf or his predeceſſors, under which he holds the land granted to him on that condition by the proprietor. There may be ſomething of hardſhip, but nothing of injuſtice. It is a voluntary act in the beginning and continuance; and all men know that what is done to one who is willing * is no injury. He who did not like the conditions, was not obliged to take the land; and he might leave it, if afterwards he came to diſlike them. If any man ſay, the like may be done by any one in the kingdom, I anſwer, that it is not always true; the proteſtants now in France cannot without extreme hazard go out of that country, tho' they are contented to loſe their eſtates. It is accounted a crime, for which they are condemned

* Volenti non fit injuria.

CHAP. III. perpetually to the gallies, and ſuch as are aiding to them to grievous fines. But before this be acknowledged to have any ſimilitude or relation to our diſcourſe concerning kings, it muſt be proved, that the preſent king, or thoſe under whom he claims, is or were proprietors of all the lands in England, and granted the ſeveral parcels under the condition of ſuffering patiently ſuch inconveniences and miſeries as are above-mentioned; or that they who did confer the crown upon any of them, did alſo give a propriety in the land; which I do not find in any of the fifteen or ſixteen titles that have been ſince the coming in of the Normans: and if it was not done to the firſt of every one, it cannot accrue to the others, unleſs by ſome new act to the ſame purpoſe, which will not eaſily be produced.

It will be no leſs difficult to prove, that any thing unworthy of freemen is by any tenures impoſed in England, unleſs it be the offering up of the wives and daughters of tenants to the luſt of abbots and monks; and they are ſo far from being willingly ſuffered, that ſince the dens and nurſeries of thoſe beaſts were aboliſhed, no man that ſucceeds them has had impudence ſufficient to exact the performance; and tho' the letter of the law may favour them, the turpitude of the thing has extinguiſhed the uſage.

But even the kings of Iſrael and Judah, who brought upon the people thoſe evils that had been foretold by Samuel, did not think they had a right to the powers they exerciſed. If the law had given a right to Ahab to take the beſt of their vineyards, he might without ceremony have taken that of Naboth, and by the majeſtic power of an abſolute monarch, have chaſtiſed the churliſh clown, who refuſed to ſell or change it for another: but for want of it, he was obliged to take a very different courſe. If the lives of ſubjects had in the like manner depended upon the will of kings, David might without ſcruple have killed Uriah, rather than to place him in the front of the army, that he might fall by his own courage. The malice and treachery of ſuch proceedings argues a defect of power; and he that acts in ſuch an oblique manner, ſhews, that his actions are not warranted by the law, which is boldly executed in the face of the ſun. This ſhews the interpretation put upon the words, "againſt
Pſal. li. "thee only have I ſinned," by court-flatterers, to be falſe. If he had not ſinned againſt Bathſheba, whom he corrupted, Uriah whom he cauſed to be killed, the people that he ſcandalized, and the law which he violated, he had never endeavoured to cover his guilt by ſo vile a fraud. And as he did not thereby fly the ſight of God, but of men, it is evident, that he in that action feared men more than God.

If by the examples of Iſrael and Judah we may judge, whether the inconveniences and miſeries brought upon nations by their kings be tolerable or intolerable, it will be enough to conſider the madneſs of Saul's cruelty towards his ſubjects, and the ſlaughter brought upon them by the hand of the Philiſtines on mount Gilboa, where he fell with the flower of all Iſrael; the civil wars that happened in the time of David, and the plague brought upon the people by his wickedneſs; the heavy burdens laid upon them by Solomon, and the idolatry favoured by him; the wretched folly of Rehoboam, and the defection of the ten tribes cauſed by it; the idolatry eſtabliſhed by Jeroboam, and the kings

kings of Iſrael, and that of many of thoſe of Judah alſo; the frequent wars, and unheard of ſlaughters enſuing thereupon between the tribes; the daily devaſtations of the country by all ſorts of ſtrangers; the murders of the prophets; the abolition of God's worſhip; the deſolation of towns and provinces; the captivity of the ten tribes carried away into unknown countries; and, in the end, the abolition of both kingdoms, with the captivity of the tribe of Judah, and the utter deſtruction of the city. It cannot be ſaid, that theſe things were ſuffered under kings, and not from or by them; for the deſolation of the cities, people, and country, is, in many places of ſcripture, imputed to the kings that taught Iſrael to ſin, as appears by what was denounced againſt Jeroboam, Jehu, Ahaz, Manaſſeh, Zedekiah, and others. Nay, the captivity of Babylon, with the evils enſuing, were firſt announced to Hezekiah for his vanity; and Joſiah, by the like, brought a great ſlaughter upon himſelf and people. But if miſchiefs fell upon the people by the frailty of theſe, who, after David, were the beſt, nothing ſurely leſs than the utmoſt of all miſeries could be expected from ſuch as were ſet to do evil, and to make the nation like to themſelves, in which they met with too great ſucceſs.

SECT. 6.

1 Kings xiv.
2 Kings xxi.
2 Kings xx.

If it be pretended, that God's people, living under an extraordinary diſpenſation, can be no example to us, I deſire other hiſtories may be examined; for, I confeſs, I know no nation ſo great, happy, and proſperous, nor any power, ſo well eſtabliſhed, that two or three ill kings, immediately ſucceeding each other, have not been able to deſtroy, and bring to ſuch a condition, that it appeared the nations muſt periſh, unleſs the ſenates, diets, and other aſſemblies of ſtate, had put a ſtop to the miſchief, by reſtraining or depoſing them; and tho' this might be proved by innumerable teſtimonies, I ſhall content myſelf with that of the Roman empire, which periſhed by the vices, corruption, and baſeneſs, of their princes: the noble kingdom of the Goths in Spain overthrown by the tyranny of Witza and Rodrigo: the preſent ſtate of Spain now languiſhing, and threatning ruin from the ſame cauſes: France brought to the laſt degree of miſery and weakneſs by the degenerate races of Pharamond and Charles, preſerved and reſtored by the virtues of Pepin and Capet; to which may be added thoſe of our own country, which are ſo well known that I need not mention them.

SECT. VI.

It is not good for ſuch nations as will have kings, to ſuffer them to be glorious, powerful, or abounding in riches.

OUR author having hitherto ſpoken of all nations, as born under a neceſſity of being ſubject to abſolute monarchy, which he pretends to have been ſet up by the univerſal and indiſpenſable law of God and nature, now ſeems to leave to their diſcretion, whether they

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they will have a king or not; but ſays, that thoſe "who will have a "king, are bound to allow him royal maintenance, by providing re- "venues for the crown; ſince it is for the honour, profit, and ſafety, "of the people, to have their king glorious, powerful, and abound- "ing in riches." If there be any thing of ſenſe in this clauſe, there is nothing of truth in the foundation or principle of his whole book. For as the right and being of a father is natural or inherent, and no-ways depending upon the will of the child; that of a king is ſo alſo, if he be, and ought to enjoy the rights belonging to the father of the people: and it is not leſs ridiculous to ſay, "thoſe who will have a "king," than it would be to ſay, "he that will have a father;" for every one muſt have one whether he will or not. But if the king be a father, as our author from thence infers, that all laws are from him, none can be impoſed upon him; and whatſoever the ſubject enjoys is by his conceſſions: it is abſurd to ſpeak of an obligation lying upon the people to allow him royal maintenance, by providing revenues, ſince he has all in himſelf, and they have nothing, that is not from him, and depending upon his will. For this reaſon a worthy gentle- man of the houſe of commons, in the year 1640. deſired, that the buſineſs of the judges, who in the ſtar-chamber had given for their opinion concerning ſhip-money, "that, in caſes of neceſſity, the king "might provide it by his own authority, and that he was judge of "that neceſſity," might be firſt examined, that they might know whether they had any thing to give, before they ſhould ſpeak of giving. And as it is certain, that if the ſentence of thoſe perjured wretches had ſtood, the ſubjects of England by conſequence would have been found to have nothing to give; it is no leſs ſure, that if our author's principle concerning the paternal and abſolute power of kings be true, it will, by a more compendious way, appear, that it is not left to the choice of any nation, whether they will have a king or not; for they muſt have him, and can have nothing to allow him, but muſt receive all from him.

But if thoſe only who "will have a king," are bound to have one, and to allow this "royal maintenance," ſuch as will not have a king, are, by one and the ſame act, delivered from the neceſſity of having one, and from providing maintenance for him; which utterly over- throws the magnificent fabric of paternal monarchy; and the kings, who were lately repreſented by our author, placed on the throne by God and nature, and endowed with an abſolute power over all, appear to be purely the creatures of the people, and to have nothing but what is received from them.

From hence it may be rationally inferred, that * he who makes a thing to be, makes it to be only what he pleaſes. This muſt hold in relation to kings as well as other magiſtrates; and as they who made conſuls, dictators, and military tribunes, gave them only ſuch power, and for ſuch a time, as beſt pleaſed themſelves, it is impoſ- ſible they ſhould not have the ſame right in relation to kings, in making them what they pleaſe, as well as not to make them unleſs they pleaſe; except there be a charm belonging to the name, or the letters

* Qui dat eſſe, dat modum eſſe.

letters that compoſe it; which cannot belong to all nations; for they are different in every one according to their ſeveral languages SECT. 6.

But, ſays our author, it is "for the honour, profit, and ſafety of the "people, tha tth eking ſhould be glorious, powerful, and abounding in "riches." There is therefore no obligation upon them, and they are to judge whether it be ſo or not. The ſcripture ſays plainly the contrary: "He ſhall not multiply ſilver and gold, wives and horſes: he ſhall not Deut. xvii. "lift up his heart above his brethren." He ſhall not therefore be glorious, powerful, or abounding in riches. Reaſon and experience teach us the ſame thing: if thoſe nations, that have been proud, luxurious, and vicious, have deſired by pomp and riches to foment the vices of their princes, thereby to cheriſh their own; ſuch as have excelled in virtue, and good diſcipline, have abhorred it; and, except the immediate exerciſe of their office, have kept their ſupreme magiſtrates to a manner of living little different from that of private men: and it had been impoſſible to maintain that frugality, in which the integrity of their manners did chiefly conſiſt, if they had ſet up an example directly contrary to it, in him who was to be an example to others; or to provide for their own ſafety, if they had overthrown that integrity of manners by which it could only be obtained and preſerved. There is a neceſſity incumbent upon every nation that lives in the like principle, to put a ſtop to the entrance of thoſe vices that ariſe from the ſuperfluity of riches, by keeping their kings in that honeſt poverty, which is the mother and nurſe of modeſty, ſobriety, and all manner of virtue: and no man can deny this to be well done, unleſs he will affirm, that pride, luxury, and vice, is more profitable to a nation, than the virtues that are upheld by frugality.

There is another reaſon of no leſs importance to thoſe nations, who, tho' they think fit to have kings, yet deſire to preſerve their liberty, which obliges them to ſet limits to the glory, power, and riches of their kings; and that is, That they can no otherwiſe be kept within the rules of the law. Men are naturally propenſe to corruption; and if he, whoſe will and intereſt it is to corrupt them, be furniſhed with the means, he will never fail to do it. Power, honours, riches, and the pleaſures that attend them, are the baits by which men are drawn to prefer a perſonal intereſt before the public good; and the number of thoſe who covet them, is ſo great, that he who abounds in them will be able to gain ſo many to his ſervice as ſhall be ſufficient to ſubdue the reſt. It is hard to find a tyranny in the world that has not been introduced this way; for no man by his own ſtrength could ever ſubdue a multitude; none could ever bring many to be ſubſervient to his ill deſigns, but by the rewards they received or hoped. By this means Cæſar accompliſhed his work, and overthrew the liberty of his country, and with it all that was then good in the world. They who were corrupted in their minds, deſired to put all the power and riches into his hands, that he might diſtribute them to ſuch as ſerved him. And he, who was nothing leſs than covetous in his own nature, deſired riches, that he might gain followers; and by the plunder of Gaul he corrupted thoſe that betrayed Rome to him. And tho' I do not delight to ſpeak of the affairs of

CHAP. III.

our own time, I deſire thoſe who know the preſent ſtate of France to tell me, whether it were poſſible for the king to keep that nation under ſervitude, if a vaſt revenue did not enable him to gain ſo many to his particular ſervice as are ſufficient to keep the reſt in ſubjection: and if this be not enough, let them conſider, whether all the dangers that now threaten us at home, do not proceed from the madneſs of thoſe, who gave ſuch a revenue, as is utterly unproportionable to the riches of the nation, unſuitable to the modeſt behaviour expected from our kings, and which in time will render parliaments unneceſſary to them.

On the other hand, the poverty and ſimplicity of the Spartan kings was no leſs ſafe and profitable to the people, than truly glorious to them. Ageſilaus denied that Artaxerxes was greater than he, unleſs he were more temperate, or more valiant; and he made good his words ſo well, that, without any other aſſiſtance than what his wiſdom and valour did afford, he ſtruck ſuch a terror into that great, rich, powerful, and abſolute monarch, that he did not think himſelf ſafe in Babylon or Ecbatane, till the poor Spartan was, by a captain of as great valour, and greater poverty, obliged to return from Aſia to the defence of his own country. This was not peculiar to the ſevere Laconic diſcipline. When the Roman kings were expelled, a few carts were prepared to tranſport their goods: and their lands, which were conſecrated to Mars, and now go under the name of Campus Martius, hardly contain ten acres of ground. Nay, the kings of Iſrael, who led ſuch vaſt armies into the field (that is, were followed by all the people who were able to bear arms), ſeem to have poſſeſſed little. Ahab, one of the moſt powerful, was ſo fond of Naboth's vineyard (which, being the inheritance of his fathers, according to their equal diviſion of lands, could not be above two acres), that he grew ſick when it was refuſed.

But, if an allowance be to be made to every king, it muſt be either according to an univerſal rule or ſtandard, or muſt depend upon the judgment of nations. If the firſt, they who have it, may do well to produce it; if the other, every nation, proceeding according to the meaſure of their own diſcretion, is free from blame.

It may alſo be worth obſervation, whether the revenue given to a king be in ſuch manner committed to his care, that he is obliged to employ it for the public ſervice without the power of alienation; or whether it be granted as a propriety, to be ſpent as he thinks fit. When ſome of the antient Jews and Chriſtians ſcrupled the payment of tribute to the emperors, the reaſons alledged to perſuade them to a compliance ſeem to be grounded upon a ſuppoſition of the firſt: for, ſaid they, the defence of the ſtate lies upon them, which cannot be performed without armies and gariſons; theſe cannot be maintained without pay, nor money raiſed to pay them without tributes and cuſtoms. This carries a face of reaſon with it, eſpecially in thoſe countries which are perpetually or frequently ſubject to invaſions: but this will not content our author. He ſpeaks of employing the revenue in keeping the king's houſe, and looks upon it as a propriety to be ſpent as he thinks convenient; which is no leſs than to caſt it into a pit, of which no man ever knew the bottom. That

which

which is given one day, is ſquandered away the next: the people is always oppreſſed with impoſitions, to foment the vices of the court: theſe daily increaſing, they grow inſatiable, and the miſerable nations are compelled to hard labour, in order to ſatiate thoſe luſts that tend to their own ruin. SECT. 7.

It may be conſidered, that the virtuous * pagans, by the light of nature, diſcovered the truth of this. Poverty grew odious in Rome, when great men, by deſiring riches, put a value upon them, and introduced that pomp and luxury which could not be borne by men of ſmall fortunes †. From thence all furies and miſchiefs ſeemed to break looſe: the baſe, ſlaviſh, and ſo often ſubdued Aſia, by the baſeſt of men revenged the defeats they had received from the braveſt; and by infuſing into them a delight in pomp and luxury, in a ſhort time rendered the ſtrongeſt and braveſt of nations the weakeſt and baſeſt. I wiſh our own experience did not too plainly manifeſt, that theſe evils were never more prevalent than in our days, when the luxury, majeſtic pomp, and abſolute power, of a neighbouring king, muſt be ſupported by an abundance of riches, torn out of the bowels of his ſubjects, which renders them, in the beſt country of the world, and at a time when the crown moſt flouriſhes, the pooreſt and moſt miſerable of all the nations under the ſun. We too well know who are moſt apt to learn from them, and by what means and ſteps they endeavour to lead us into the like miſery. But the bird is ſafe when the ſnare is diſcovered; and if we are not abandoned by God to deſtruction, we ſhall never be brought to conſent to the ſettling of that pomp, which is againſt the practice of all virtuous people, and has brought all the nations that have been taken with it into the ruin that is intended for us.

SECT. VII.

When the Iſraelites aſked for ſuch a king as the nations about them had, they aſked for a tyrant, tho' they did not call him ſo.

"NOW that Saul was no tyrant," ſays our author, "note, that "the people aſked a king as all nations had: God anſwers, and "bids Samuel to hear the voice of the people in all things which "they ſpake, and appoint them a king. They did not aſk a tyrant; "and to give them a tyrant when they aſked a king, had not been to "hear their voice in all things, but rather, when they aſked an egg, "to have given them a ſcorpion; unleſs we will ſay, that all nations "had tyrants." But before he drew ſuch a concluſion, he ſhould have obſerved, that God did not give them a ſcorpion when they

* ——— Sævior armis
Luxuria incubuit, victumq; ulciſcitur orbem. Lucan.

† Nullum crimen abeſt, facinuſq; libidinis, ex quo
Paupertas Romana perit. Juv. Sat. vi. 292.

aſked

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aſked an egg, but told them, that was a ſcorpion which they called an egg: they would have a king to judge them, to go out before them, and to fight their battles; but God in effect told them, he would overthrow all juſtice, and turn the power that was given him, to the ruin of them, and their poſterity. But ſince they would have it ſo, he commanded Samuel to hearken to their voice, and for the puniſhment of their ſin and folly, to give them ſuch a king as they aſked, that is, one who would turn to his own profit, and their miſery, the power with which he ſhould be entruſted; and this truly denominates a tyrant. Ariſtotle makes no other diſtinction between a king and a tyrant, than that the king governs for the good of the people, the tyrant for his own pleaſure or profit: and they who aſked ſuch a one, aſked a tyrant, tho' they called him a king. This is all could be done in their language: for as they who are ſkilled in the oriental tongues aſſure me, there is no name for a tyrant in any of them, or any other way of expreſſing the thing, than by circumlocution, and adding proud, inſolent, luſtful, cruel, violent, or the like epithets, to the word lord, or king. They did in effect aſk a tyrant: they would not have ſuch a king as God had ordained, but ſuch a one as the nations had. Not that all nations had tyrants; but thoſe who were round about them, of whom they had knowledge, and which, in their manner of ſpeaking, went under the name of all, were bleſſed with ſuch maſters. This way of expreſſion was uſed by Lot's daughters, who ſaid, there was not a man in all the earth to come in to them; becauſe there was none in the neighbourhood with whom it was thought fit they ſhould accompany. Now, that the eaſtern nations were then, and are ſtill, under the government of thoſe which all free people call tyrants, is evident to all men. God therefore, in giving them a tyrant, or rather a government, that would turn into tyranny, gave them what they aſked, under another name; and, without any blemiſh to the mercy promiſed to their fathers, ſuffered them to bear the penalty of their wickedneſs and folly in rejecting him, that he ſhould not reign over them.

But tho' the name of tyrant was unknown to them, yet in Greece, from whence the word comes, it ſignified no more than one who governed according to his own will, diſtinguiſhed from kings that governed by law; and was not taken in an ill ſenſe, till thoſe who had been advanced for their juſtice, wiſdom, and valour, or their deſcendents, were found to depart from the ends of their inſtitution, and to turn that power to the oppreſſion of the people, which had been given for their protection: but by theſe means it grew odious, and that kind of government came to be thought only tolerable by the baſeſt of men; and thoſe who deſtroyed it, were in all places eſteemed to be the beſt.

If monarchy had been univerſally evil, God had not in the xviith of Deuteronomy given leave to the Iſraelites to ſet up a king; and if that kind of king had been aſked, he had not been diſpleaſed: and they could not have been ſaid to reject God, if they had not aſked that which was evil; for nothing that is good is contrary, or inconſiſtent with a people's obedience to him. The monarchy they aſked was diſpleaſing to God, it was therefore evil. But a tyrant is no more

than

than an evil or corrupted monarch: the king therefore that they demanded was a tyrant: God in granting one who would prove a tyrant, gave them what they aſked; and that they might know what they did, and what he would be, he told them they rejected him, and ſhould cry by reaſon of the king they deſired. SECT. 7.

This denotes him to be a tyrant: for as the government of a king ought to be gentle and eaſy, tending to the good of the people, reſembling the tender care of a father to his family; if he who is ſet up to be a king, and to be like to that father, do lay a heavy yoke upon the people, and uſe them as ſlaves, and not as children, he muſt renounce all reſemblance of a father, and be accounted an enemy.

"But", ſays our author, "whereas the people's crying argues ſome ty-"rannical oppreſſion, we may remember, that the people's cries are not "always an argument of their living under a tyrant. No man will ſay "Solomon was a tyrant: yet all the congregation complained, that Solo-"mon made their yoke grievous." It is ſtrange, that when children, nay, when whelps cry, it ſhould be accounted a mark that they are troubled, and that the cry of the whole people ſhould be none: or that the government which is erected for their eaſe, ſhould not be eſteemed tyrannical, if it prove grievous to thoſe it ſhould relieve. But as I know no example of a people that did generally complain without cauſe, our adverſaries muſt alledge ſome other than that of Solomon, before I believe it of any. We are to ſpeak reverently of him: he was excellent in wiſdom; he built the temple, and God appeared twice to him: but it muſt be confeſſed, that during a great part of his life he acted directly contrary to the law given by God to kings, and that his ways were evil and oppreſſive to the people, if thoſe of God were good. Kings were forbidden to multiply horſes, wives, ſilver, and gold: but he brought together more ſilver and gold, and provided more horſes, wives, and concubines, than any man is known to have had: and tho' he did not actually return to Egypt; yet he introduced their abominable idolatry, and ſo far raiſed his heart above his brethren, that he made them ſubſervient to his pomp and glory. The people might probably be pleaſed with a great part of this; but when the yoke became grievous, and his fooliſh ſon would not render it more eaſy, they threw it off; and the thing being from the Lord, it was good, unleſs he be evil.

But as juſt governments are eſtabliſhed for the good of the governed, and the Iſraelites deſired a king, that it might be well with them, not with him, who was not yet known to them; that which exalts one to the prejudice of thoſe that made him, muſt always be evil, and the people that ſuffers the prejudice muſt needs know it better than any other. He that denies this, may think the ſtate of France might have been beſt known from Bulion the late treaſurer, who, finding Lewis the Thirteenth to be troubled at the people's miſery, told him they were too happy, ſince they were not reduced to eat graſs. But if words are to be underſtood as they are ordinarily uſed, and we have no other than that of "tyranny" to expreſs a monarchy that is either evil in the inſtitution, or fallen into corruption, we may juſtly call that "tyranny" which the Scripture calls a "grievous yoke," and

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which neither the old nor the new counſellors of Rehoboam could deny to be ſo: for tho' the firſt adviſed him to promiſe amendment, and the others to do worſe, yet all agreed, that what the people ſaid was true.

This yoke is always odious to ſuch as are not by natural ſtupidity and baſeneſs fitted for it; but thoſe who are ſo, never complain. An aſs will bear a multitude of blows patiently; but the leaſt of them drives a lion into rage. He that ſaid, the rod is made for the back of fools, confeſſed that oppreſſion will make a wiſe man mad. And the moſt unnatural of all oppreſſions is to uſe lions like aſſes, and to lay that yoke upon a generous nation, which only the baſeſt can deſerve; and, for want of a better word, we call this tyranny.

Our author is not contented to vindicate Solomon only, but extends his indulgence to Saul. His cuſtom is to patronize all that is deteſtable; and no better teſtimony could be given of it. "It is true," ſays he, "Saul loſt his kingdom, but not for being too cruel or tyranni-"cal unto his ſubjects, but for being too merciful unto his enemies:" but he alledges no other reaſon, than that the ſlaughter of the prieſts is not blamed; not obſerving that the writers of the Scripture, in relating thoſe things that are known to be abominable by the light of nature, frequently ſay no more of them: and if this be not ſo, Lot's drunkenneſs and inceſt, Reuben's pollution of his father's bed, Abimelech's ſlaughter of his ſeventy brothers, and many of the moſt wicked acts that ever were committed, may paſs for laudable and innocent. But if Saul were not to be blamed for killing the prieſts, why was David blamed for the death of * Uriah? Why were the dogs to lick the blood of Ahab and Jezebel, if they did nothing more than kings might do without blame? Now, if the ſlaughter of one man was ſo ſeverely avenged upon the authors, and their families, none but ſuch as Filmer can think that of ſo many innocent men, with their wives and children, could eſcape unreproved or unpuniſhed. But the whole ſeries of the hiſtory of Saul ſhewing evidently, that his life and reign were full of the moſt violent cruelty and madneſs, we are to ſeek no other reaſon for the ruin threatened and brought upon him, and his family. And as thoſe princes who are moſt barbarouſly ſavage againſt their own people, are uſually moſt gentle to the enemies of their country, he could not give a more certain teſtimony of his hatred to thoſe he ought to have protected, than by preſerving thoſe nations, who were their moſt irreconcileable enemies. This is proved by reaſon, as well as by experience; for every man knows he cannot bear the hatred of all mankind: ſuch as know they have enemies abroad, endeavour to get friends at home: thoſe who command powerful nations, and are beloved by them, fear not to offend ſtrangers. But if they have rendered their own people enemies to them, they cannot hope for help in a time of diſtreſs, nor ſo much as a place of retreat or refuge, unleſs from ſtrangers; nor from them, unleſs they deſerve it by favouring them to the prejudice of their own country. As no man can ſerve two

* "Thou haſt killed Uriah with the ſword of the children of Ammon: now therefore "the ſword ſhall never depart from thy houſe." 2, Sam. xii.

maſters, no man can purſue two contrary intereſts: Moſes, Joſhua, Gideon, and Samuel, were ſevere to the Amorites, Midianites, and Cananites, but mild and gentle to the Hebrews. Saul, who was cruel to the Hebrews, ſpared the Amalekites, whoſe preſervation was their deſtruction: and whilſt he deſtroyed thoſe he ſhould have ſaved, and ſaved thoſe, that by a general and particular command of God he ſhould have deſtroyed, he loſt his ill-governed kingdom, and left an example to poſterity of the end that may be expected from pride, folly, and tyranny. SECT. 7.

The matter would not be much altered, if I ſhould confeſs, that, in the time of Saul, all nations were governed by tyrants (tho' it is not true, for Greece did then flouriſh in liberty, and we have reaſon to believe, that other nations did ſo alſo); for tho' they might not think of a good government at the firſt, nothing can oblige men to continue under one that is bad, when they diſcover the evils of it, and know how to mend it. They who truſted men that appeared to have great virtues, with ſuch a power as might eaſily be turned into tyranny, might juſtly retract, limit, or aboliſh it, when they found it to be abuſed. And tho' no condition had been reſerved, the public good, which is the end of all * government, had been ſufficient to abrogate all that ſhould tend to the contrary. As the malice of men, and their inventions to do miſchief, increaſe daily, all would ſoon be brought under the power of the worſt, if care were not taken, and opportunities embraced, to find new ways of preventing it. He that ſhould make war at this day as the beſt commanders did two hundred years paſt, would be beaten by the meaneſt ſoldier. The places then accounted impregnable are now ſlighted as indefenſible; and if the arts of defending were not improved as well as thoſe of aſſaulting, none would be able to hold out a day. Men were ſent into the world rude and ignorant, and if they might not have uſed their natural faculties to find out that which is good for themſelves, all muſt have been condemned to continue in the ignorance of our firſt fathers, and to make no uſe of their underſtanding to the ends for which it was given.

The beſtial barbarity in which many nations, eſpecially of Africa, America, and Aſia, do now live, ſhews what human nature is, if it be not improved by art and diſcipline; and if the firſt errors, committed through ignorance, might not be corrected, all would be obliged to continue in them; and for any thing I know, we muſt return to the religion, manners, and policy, that were found in our country at Cæſar's landing. To affirm this is no leſs than to deſtroy all that is commendable in the world, and to render the underſtanding given to men utterly uſeleſs. But if it be lawful for us, by the uſe of that underſtanding, to build houſes, ſhips, and forts, better than our anceſtors, to make ſuch arms as are moſt fit for our defence, and to invent printing, with an infinite number of other arts beneficial to mankind, why have we not the ſame right in matters of government, upon which all others do almoſt abſolutely depend? If men are not obliged to live in caves, and hollow trees, to eat acorns, and to go naked,

* Salus populi ſuprema lex.

naked, why ſhould they be for ever obliged to continue under the ſame form of government that their anceſtors happened to ſet up in the time of their ignorance? Or if they were not ſo ignorant to ſet up one that was not good enough for the age in which they lived, why ſhould it not be altered, when tricks are found out to turn that to the prejudice of nations, which was erected for their good? From whence ſhould malice and wickedneſs gain a privilege of putting new inventions to do miſchief every day into practice? and who is it that ſo far protects them, as to forbid good and innocent men to find new ways alſo of defending themſelves from it? If there be any that do this, they muſt be ſuch as live in the ſame principle; who, whilſt they pretend to exerciſe juſtice, provide only for the indemnity of their own crimes, and the advancement of unjuſt deſigns. They would have a right of attacking us, with all the advantages of the arms now in uſe, and the arts, which by the practice of ſo many ages have been wonderfully refined, whilſt we ſhould be obliged to employ no others in our juſt defence, than ſuch as were known to our naked anceſtors when Cæſar invaded them, or to the Indians, when they fell under the dominion of the Spaniards. This would be a compendious way of placing uncontrouled iniquity in all the kingdoms of the world, and to overthrow all that deſerves the name of good by the introduction of ſuch accurſed maxims. But if no man dares to acknowledge any ſuch, except thoſe whoſe acknowledgment is a diſcredit, we ought not to ſuffer them to be obliquely obtruded upon us, nor to think, that God has ſo far abandoned us into the hands of our enemies, as not to leave us the liberty of uſing the ſame arms in our defence as they do to offend and injure us.

We ſhall be told, that prayers and tears were the only arms of the firſt chriſtians, and that Chriſt commanded his diſciples to pray for thoſe that perſecuted them: but beſides, that thoſe precepts of the moſt extreme lenity do ill ſuit with the violent practices of thoſe who attempt to enſlave nations, and who, by alledging them, do plainly ſhew, either that they do not extend to all chriſtians, or that they themſelves are none whilſt they act contrary to them; they are to know, that thoſe precepts were merely temporary, and directed to the perſons of the apoſtles, who were armed only with the ſword of the ſpirit; that the primitive Chriſtians uſed prayers and tears only no longer, than whilſt they had no other arms. But knowing, that by liſting themſelves under the enſigns of chriſtianity they had not loſt the rights belonging to all mankind, when nations came to be converted, they no-way thought themſelves obliged to give their enemies a certain opportunity of deſtroying them, when God had put means into their hands of defending themſelves; and proceeded ſo far in this way, that the chriſtian valour ſoon became no leſs famous and remarkable than that of the pagans. They did with the utmoſt vigour defend both their civil and religious rights againſt all the powers of earth and hell, who by force and fraud endeavoured to deſtroy them.

SECT. VIII.

Under the name of tribute, no more is underſtood, than what the law of each nation gives to the ſupreme magiſtrate for the defraying of public charges; to which the cuſtoms of the Romans, or ſufferings of the Jews, have no relation.

"IF any deſire the directions of the New Teſtament," ſays our author, "he may find our Saviour limiting and diſtinguiſhing "royal power, by giving to Cæſar thoſe things that are Cæſar's, and "to God the things that are God's." But that will be of no advantage to him in this conteſt. We do not deny to any man, that which is his due; but do not ſo well know who is Cæſar, nor what it is that can truly be ſaid to be due to him. I grant, that when thoſe words were ſpoken, the power of the Romans, exerciſed by Tiberius, was then expreſſed by the name of Cæſar, which he without any title had aſſumed. The Jews, amongſt many other nations, having been ſubdued, ſubmitted to it; and, being no-way competent judges of the rights belonging to the ſenate or people of Rome, were obliged to acknowledge that power which their maſters were under. They had no commonwealth of their own, nor any other government amongſt themſelves, that was not precarious. They thought Chriſt was to have reſtored their kingdom, and by them to have reigned over the nations; but he ſhewed them they were to be ſubject to the Gentiles, and that within few years their city and temple ſhould be deſtroyed. Their commonwealth muſt needs expire, when all that was prefigured by it was accompliſhed. It was not for them at ſuch a time to preſume upon their abrogated privileges, nor the promiſes made to them, which were then fulfilled. Nay, they had by their ſins profaned themſelves, and given to the Gentiles a right over them, which none could have had, if they had continued in their obedience to the law of God. This was the foundation of the Cæſars dominion over them, but can have no influence upon us. The firſt of the Cæſars had not been ſet up by them: the ſeries of them had not been continued by their conſent: they had not interrupted the ſucceſſion by placing or diſplacing ſuch as they pleaſed: they had not brought in ſtrangers or baſtards, nor preferred the remoteſt in blood before the neareſt: they had no part in making the laws, by which they were governed, nor had the Cæſars ſworn to them: they had no "great charter," acknowledging their liberties to be innate or inherent in them, confirmed by immemorial cuſtom, and ſtrengthened by thirty acts of their own general aſſemblies, with the aſſent of the Romans: the Cæſar who then governed, came not to the power by their conſent: the queſtion, "Will ye have this man to "reign?" had never been aſked; but he being impoſed upon them, they were to ſubmit to the laws, by which he governed their maſters. This can be nothing to us, whoſe caſe is in every reſpect moſt unlike to theirs. We have no dictatorian power over us; and neither we

CHAP. III. nor our fathers have rendered or owed obedience to any human laws, but our own, nor to any other magiſtracy, than what we have eſtabliſhed. We have a king who reigns by law. His power is from the * "law that makes him king:" and we can know only from thence what he is to command, and what we are obliged to obey. We know the power of the Cæſars was uſurped, maintained, and exerciſed, with the moſt deteſtable violence, injuſtice, and cruelty. But tho' it had been eſtabliſhed by the conſent of the Romans, from an opinion that it was good for them in that ſtate of affairs, it were nothing to us: and we could be no more obliged to follow their example in that, than to be governed by conſuls, tribunes, and decemviri, or to conſtitute ſuch a government as they ſet up when they expelled their kings. Their authority was as good at one time as at the other; or if a difference ought to be made, the preference is to be given to what they did when their manners were moſt pure, the people moſt free, and when virtue was moſt flouriſhing among them. But if we are not obliged to ſet up ſuch a magiſtracy as they had, it is ridiculous to think, that ſuch an obedience is due to one who is not in being as they paid to him that was. And if I ſhould confeſs, that Cæſar, holding the ſenate and people of Rome under the power of the ſword, impoſed what tribute he pleaſed upon the provinces; and that the Jews, who had no part in the government, were obliged to ſubmit to his will; our liberty of paying nothing, except what the parliament appoints, and yielding obedience to no laws, but ſuch as are made to be ſo by their authority, or by our own immemorial cuſtoms, could not be thereby infringed. But we may juſtly affirm, that the tribute impoſed was not, as our author infers, "all their coin," nor a conſiderable part of it, nor more than what was underſtood to go for the defraying of the public charges. Chriſt by aſking, whoſe image and ſuperſcription was ſtampt upon their money, and thereupon commanding them to give to Cæſar that which was Cæſar's, did not imply, that all was his; but that Cæſar's money being current amongſt them, it was a continual and evident teſtimony, that they acknowledged themſelves to be under his juriſdiction, and therefore could not refuſe to pay the tribute laid upon them by the ſame authority, as other nations did.

It may alſo be obſerved, that Chriſt did not ſo much ſay this to determine the queſtions, that might ariſe, concerning Cæſar's power; for he plainly ſays, that was not his work; but to put the Phariſees to ſilence, who tempted him. According to the opinion of the Jews, that the Meſſias would reſtore the kingdom of Iſrael, they thought his firſt work would be to throw off the Roman yoke; and not believing him to be the man, they would have brought him to avow the thing, that they might deſtroy him. But as that was not his buſineſs, and that his time was not yet come, it was not neceſſary to give them any other anſwer, than ſuch as might diſappoint their purpoſe. This ſhews that, without detracting from the honour due to Auſtin, Ambroſe, or Tertullian, I may juſtly ſay, that the deciſion of ſuch queſtions as ariſe concerning our government, muſt be decided by our

* Lex facit ut ſit rex. Bracton.

our laws, and not by their writings. They were excellent men, SECT. 8.
but living in another time, under a very different government, and applying themſelves to other matters, they had no knowledge at all of thoſe that concern us. They knew what government they were under, and thereupon judged what a broken and diſperſed people owed to that which had given law to the beſt part of the world before they were in being, under which they had been educated, and which, after a moſt cruel perſecution, was become propitious to them. They knew, that the word of the emperor was a law to the ſenate and people, who were under the power of that man that could get the beſt army; but perhaps had never heard of ſuch mixed governments as ours, tho' about that time they began to appear in the world. And it might be as reaſonably concluded, that there ought to be no rule in the ſucceſſion or election of princes, becauſe the Roman emperors were ſet up by the violence of the ſoldiers, and for the moſt part, by the ſlaughter of him who was in poſſeſſion of the power, as that all other princes muſt be abſolute when they have it, and do what they pleaſe, till another more ſtrong, and more happy, may, by the like means, wreſt the ſame power from them.

I am much miſtaken if this be not true; but without prejudice to our cauſe, we may take that which they ſay, according to their true meaning, in the utmoſt extent. And to begin with Tertullian: it is good to conſider the ſubject of his diſcourſe, and to whom he wrote. The treatiſe cited by our author is the apologetic, and tends to perſuade the pagans, that civil magiſtrates might not intermeddle with religion; and that the laws made by them touching thoſe matters, were of no value, as relating to things of which they had no cogniſance. * "It is not," ſays he, "length of time, nor "the dignity of the legiſlators, but equity only, that can commend "laws; and when any are found to be unjuſt, they are deſervedly "condemned." By which words he denied, that the magiſtratical power, which the Romans acknowledged in Cæſar, had any thing to do in ſpiritual things. And little advantage can be taken by Chriſtian princes from what he ſays concerning the Roman emperors; for he expreſly declares, † "That the Cæſars would have believed in Chriſt, "if they had either not been neceſſary to the ſecular government, or "that Chriſtians might have been Cæſars." This ſeems to have proceeded from an opinion received by Chriſtians in the firſt ages, that the uſe of the civil as well as the military ſword was equally accurſed: that "Chriſtians were to be ‡ ſons of peace, enemies to no man; "and that Chriſt, by commanding Peter to put up his ſword, did "for ever diſarm all Chriſtians." He proceeds to ſay, ‖ "We can-"not fight to defend our goods, having in our baptiſm renounced the

* Leges non annorum numerus, nec conditorum dignitas, ſed ſola æquitas commendat, atque ideo ſi iniquæ cognoſcuntur merito damnantur. Tertul. Ap.

† Sed & Cæſares ſuper Chriſto credidiſſent, ſi aut Cæſares non eſſent ſæculo neceſſarii, aut Chriſtiani potuiſſent eſſe Cæſares. Ibid.

‡ Filii pacis, nullius hoſtes; & Chriſtus exarmando Petrum, omnem chriſtianum militem in æternum diſcinxit. Ibid.

‖ Nobis omnis gloriæ & dignitatis ardore frigentibus, &c. Nec alia res eſt nobis magis aliena quam publica: unam nobis rempublicam mundum agnoſcimus.

"world,

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" world, and all that is in it; nor to gain honours, accounting nothing " more foreign to us than public affairs, and acknowledging no other " commonwealth than that of the whole world;" nor to ſave our lives, becauſe we account it a happineſs to be killed. He diſſuades the pagans from executing Chriſtians, rather from charity to them in keeping them from the crime of ſlaughtering the innocent, than that they were unwilling to ſuffer: and gives no other reaſons of their prayers for the emperors, than that they were commanded to love their enemies, and to pray for thoſe who perſecuted them, except ſuch as he drew from a miſtake, that the world was ſhortly to finiſh with the diſſolution of the empire. All his works, as well thoſe that were written before he fell into montaniſm, as thoſe publiſhed afterwards, are full of the like opinions; and if Filmer acknowledges them to be true, he muſt confeſs, that princes are not fathers, but * enemies: and not only they, but all thoſe who render themſelves miniſters of the powers they execute, in taking upon them the ſword that Chriſt had curſed, do renounce him; and we may conſider how to proceed with ſuch as do ſo. If our author will not acknowledge this, then no man was ever guilty of a more vile prevarication than he, who alledges thoſe words in favour of his cauſe, which have their only ſtrength in opinions that he thinks falſe, and in the authority of a man whom in that very thing he condemns; and muſt do ſo, or overthrow all that he endeavours to ſupport. But Tertullian's opinions concerning theſe matters have no relation to our preſent queſtion. The deſign of his apology, and the treatiſe to Scapula, almoſt upon the ſame ſubject, was to ſhew, that the civil magiſtracy, which he comprehends under the name of Cæſar, had nothing to do with matters of religion; and that, as no man could be a Chriſtian who would undertake the work of a magiſtrate, they who were jealous the public offices might be taken out of their hands, had nothing to fear from Chriſtians who reſolved not to meddle with them. Whereas our queſtion is only, whether that magiſtratical power, which, by law or uſurpation, was then in Cæſar, muſt neceſſarily in all times, and in all places, be in one man, or may be divided and balanced according to the laws of every country, concerning which he ſays nothing: or whether we, who do not renounce the uſe of the civil or military ſword, who have a part in the government, and think it our duty to apply ourſelves to public cares, ſhould lay them aſide, becauſe the antient Chriſtians every hour expecting death, did not trouble themſelves with them.

If Ambroſe, after he was a biſhop, employed the ferocity of a ſoldier, which he ſtill retained, rather in advancing the power of the clergy, than the good of mankind, by reſtraining the rage of tyrants, it can be no prejudice to our cauſe, of which he had no cogniſance. He ſpoke of the violent and deſpotical government, to which he had been a miniſter before his baptiſm, and ſeems to have had no knowledge of the Gothic polity, that within a few years grew famous by the overthrow of the Roman tyranny, and delivering the world from the yoke which it could no longer bear. And if Auſtin

* Qui enim magis inimici Chriſtianorum, quam de quorum majeſtate convenimur in crimen? Tertul. ib.

ſtin might ſay, that "the emperor is ſubject to no laws, becauſe he has "a power of making laws," I may juſtly ſay, that our kings are ſubject to laws, becauſe they can make no law, and have no power but what is given by the laws. If this be not the caſe, I deſire to know who made the laws, to which they and their predeceſſors have ſworn; and whether they can, according to their own will, abrogate thoſe antient laws, by which they are made to be what they are, and by which we enjoy what we have; or whether they can make new laws by their own power? If no man but our author have impudence enough to aſſert any ſuch thing; and if all the kings we ever had, except Richard the Second, did renounce it; we may conclude, that Auſtin's words have no relation to our diſpute; and that it were to no purpoſe to examine, whether the fathers mention any reſervation of power to the laws of the land, or to the people; it being as lawful for all nations, if they think fit, to frame governments different from thoſe that were then in being, as to build baſtions, halfmoons, hornworks, ravelins, or counterſcarps, or to make uſe of muſkets, cannon, mortars, carabines, or piſtols, which were unknown to them. SECT. 8.

What Solomon ſays of the Hebrew kings, does as little concern us. We have already proved their power not to have been abſolute, tho' greater than that which the law allows to ours. It might, upon occaſion, be a prudent advice to private perſons living under ſuch governments as were uſual in the eaſtern countries, "to keep the king's "commandments, and not to ſay, What doſt thou? becauſe where the "word of a king is, there is power, and all that he pleaſeth he will do." But all theſe words are not his; and thoſe that are, muſt not be taken in a general ſenſe; for tho' his ſon was a king, yet in his words there was no power: he could not do what he pleaſed, nor hinder others from doing what they pleaſed: he would have added weight to the yoke that lay upon the necks of the Iſraelites, but he could not; and we do not find him to have been maſter of much more than his own tongue, to ſpeak as many fooliſh things as he pleaſed. In other things, whether he had to deal with his own people, or with ſtrangers, he was weak and impotent; and the wretches who flattered him in his follies could be of no help to him. The like has befallen many others: thoſe who are wiſe, virtuous, valiant, juſt, and lovers of their people, have and ought to have power; but ſuch as are lewd, vicious, fooliſh, and haters of their people, ought to have none, and are often deprived of all. This was well known to Solomon, who ſays, that "a wiſe child is better than an old and fooliſh king, "that will not be adviſed." When Nabuchodonoſor ſet himſelf in the place of God, his kingdom was taken from him, and he was driven from the ſociety of men to herd with beaſts. There was power for a time in the word of Nero: he murdered many excellent men: but he was called to account, and the world abandoned the monſter it had too long endured. He found none to defend him, nor any better help, when he deſired to die, than the hand of a ſlave. Beſides this, ſome kings by their inſtitution have little power; ſome have been deprived of what they had, for abuſing, or rendering themſelves unworthy of it; and hiſtory affords us innumerable examples of both ſorts.

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But tho' I ſhould confeſs that there is always power in the word of a king, it would be nothing to us, who diſpute concerning right, and have no regard to that power which is void of it. A thief or a pirate may have power; but that avails him not, when, as often befel the Cæſars, he meets with one who has more, and is always unſafe, ſince, having no effect upon the conſciences of men, every one may deſtroy him that can: and I leave it to kings to conſider how much they ſtand obliged to thoſe, who, placing their rights upon the ſame foot, expoſe their perſons to the ſame dangers.

But if kings deſire, that in their word there ſhould be power, let them take care, that it be always accompanied with truth and juſtice. Let them ſeek the good of their people, and the hands of all good men will be with them. Let them not exalt themſelves inſolently, and every one will deſire to exalt them. Let them acknowledge themſelves to be the ſervants of the public, and all men will be theirs. Let ſuch as are moſt addicted to them, talk no more of Cæſars, nor the tributes due to them. We have nothing to do with the name of Cæſar. They who at this day live under it, reject the prerogatives antiently uſurped by thoſe that had it, and are governed by no other laws than their own. We know no law to which we owe obedience, but that of God, and ourſelves. Aſiatic ſlaves uſually pay ſuch tribute as are impoſed upon them; and whilſt braver nations lay under the Roman tyranny, they were forced to ſubmit to the ſame burdens. But even thoſe tributes were paid for maintaining armies, fleets, and gariſons, without which the poor and abject life they led could not have been preſerved. We owe none but what we freely give. None is or can be impoſed upon us, unleſs by ourſelves. We meaſure our grants according to our own will, or the preſent occaſions, for our own ſafety. Our anceſtors were born free, and, as the beſt proviſion they could make for us, they left us that liberty intire, with the beſt laws they could deviſe to defend it. It is no way impaired by the opinions of the fathers. The words of Solomon do rather confirm it. The happineſs of thoſe who enjoy the like, and the ſhameful miſery they lie under, who have ſuffered themſelves to be forced or cheated out of it, may perſuade, and the juſtice of the cauſe encourage us, to think nothing too dear to be hazarded in the defence of it.

SECT. IX.

Our own laws confirm to us the enjoyment of our native rights.

IF that which our author calls divinity did reach the things in diſpute between us, or that the opinions of the fathers, which he alledges, related to them, he might have ſpared the pains of examining our laws; for a municipal ſanction were of little force to confirm a perpetual and univerſal law given by God to mankind, and of no value againſt it, ſince man cannot abrogate what God hath inſti-

inſtituted, nor one nation free itſelf from a law that is given to all. But having abuſed the ſcriptures, and the writings of the fathers (whoſe opinions are to be valued only ſo far as they rightly interpret them) he ſeems deſirous to try, whether he can as well put a falſe ſenſe upon our law, and has fully compaſſed his deſign. According to his cuſtom he takes pieces of paſſages from good books, and turns them directly againſt the plain meaning of the authors, expreſſed in the whole ſcope and deſign of their writings. To ſhew that he intends to ſpare none, he is not aſhamed to cite Bracton, who, of all our antient law-writers, is moſt oppoſite to his maxims. He lived, ſays he, in Henry the Third's time, ſince parliaments were inſtituted: as if there had been a time when England had wanted them; or that the eſtabliſhment of our liberty had been made by the Normans, who, if we will believe our author, came in by force of arms, and oppreſſed us. But we have already proved the eſſence of parliaments to be as antient as our nation, and that there was no time in which there were not ſuch councils or aſſemblies of the people as had the power of the whole, and made or unmade ſuch laws as beſt pleaſed themſelves. We have indeed a French word from a people that came from France, but the power was always in ourſelves; and the Norman kings were obliged to ſwear they would govern according to the laws that had been made by thoſe aſſemblies. It imports little, whether Bracton lived before or after they came amongſt us. His words are, "Omnes ſub eo, & ipſe ſub nullo, ſed tantum "ſub deo; all are under him, and he under none but God only. If "he offend, ſince no writ can go out againſt him, their remedy is, "by petitioning him to amend his faults; which if he will not do, "it is puniſhment enough for him to expect God as an avenger. Let "none preſume to look into his deeds, much leſs to oppoſe him." Here is a mixture of ſenſe and nonſenſe, truth and falſhood, the words of Bracton, with our author's fooliſh inferences from them. Bracton ſpoke of the politic capacity of the king, when no law had forbidden him to divide it from his natural. He gave the name of king to the ſovereign power of the nation, as Jacob called that of his deſcendents the ſceptre; which he ſaid ſhould not depart from Judah till Shiloh came, tho' all men know, that his race did not reign the third part of that time over his own tribe, nor full fourſcore years over the whole nation. The ſame manner of ſpeech is uſed in all parts of the world. Tertullian, under the name of Cæſar, comprehended all magiſtratical power, and imputed to him the acts, of which in his perſon he never had any knowledge. The French ſay, their king is always preſent, "ſur ſon lit de juſtice," in all the ſovereign courts of the kingdom, which are not eaſily numbered; and that maxim could have in it neither ſenſe nor truth, if by it they meant a man, who can be but in one place at one time, and is always comprehended within the dimenſions of his own ſkin. Theſe things could not be unknown to Bracton, the like being in uſe amongſt us; and he thought it no offence ſo far to follow the dictates of reaſon prohibited by no law, as to make a difference between the inviſible and omnipreſent King, who never dies, and the perſon that wears the crown, whom no man, without the guilt of treaſon, may endea-

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vour to kill, ſince there is an act of parliament in the caſe. I will not determine whether he ſpoke properly or no as to England; but if he did not, all that he ſaid being upon a falſe ſuppoſition, is nothing to our purpoſe. The ſame Bracton ſays, "the king doth no wrong," inaſmuch as he doth nothing but by law. * "The power of the "king is the power of the law, a power of right not of wrong." Again, "if † the king does injuſtice, he is not king." In another place he has theſe words; ‖ "the king therefore ought to exerciſe the "power of the law, as becomes the vicar and miniſter of God upon "earth, becauſe that power is the power of God alone; but the "power of doing wrong is the power of the devil, and not of God. "And the king is his miniſter, whoſe work he does: whilſt he does "juſtice, he is the vicar of the eternal King; but if he deflect from "it to act unjuſtly, he is the miniſter of the devil." He alſo ſays, that the king is, "ſingulis major, univerſis minor;" and that he who is, "in juſtitia exequenda omnibus major, in juſtitia recipienda cui-"libet ex plebe fit æqualis." I ſhall not ſay Bracton is in the right when he ſpeaks in this manner; but it is a ſtrange impudence in Filmer to cite him as a patron of the abſolute power of kings, who does ſo extremely depreſs them. But the groſſeſt of his follies is yet more pardonable than his deteſtable fraud in falſifying Bracton's words, and leaving out ſuch as are not for his purpoſe, which ſhew his meaning to be directly contrary to the ſenſe put upon them. That this may appear, I ſhall ſet down the words as they are found in Bracton: "Ipſe autem rex non debet eſſe ſub homine, ſed ſub Deo, "& ſub lege, quia lex facit regem. Attribuat ergo rex legi quod lex "attribuit ei, id eſt dominationem & poteſtatem: non eſt enim rex "ubi dominatur voluntas & non lex; & quod ſub lege eſſe debeat, "cum ſit Dei vicarius, evidenter apparet." If Bracton therefore be a competent judge, the king is under the law; and he is not a king, nor God's vicegerent, unleſs he be ſo; and we all know how to proceed with thoſe, who, being under the law, offend againſt it. For the law is not made in vain. In this caſe ſomething more is to be done than petitioning; and it is ridiculous to ſay, that if "he will "not amend, it is puniſhment enough for him to expect God an "avenger;" for the ſame may be ſaid of all malefactors. God can ſufficiently puniſh thieves and murderers: but the future judgment, of which perhaps they have no belief, is not ſufficient to reſtrain them from committing more crimes, nor to deter others from following their example. God was always able to puniſh murderers, but yet by his law he commands man to ſhed the blood of him who ſhould ſhed man's blood; and declares, that the land cannot be purged of the guilt by any other means. He had judgments in ſtore for Jeroboam, Ahab, and thoſe that were like them; but yet he commanded that, according to that law, their houſes ſhould be deſtroyed from the earth. The dogs licked up the blood of Ahab, where they had licked

* Poteſtas regis eſt poteſtas legis, poteſtas juris, non injuriæ. Bract. de leg. Angl.

† Qui ſi facit injuriam, non eſt rex. Ibid.

‖ Exercere igitur debet rex poteſtatem juris, ſicut Dei vicarius & miniſter in terra, quia illa poteſtas ſolius Dei eſt: poteſtas autem injuriæ diaboli eſt, non Dei; & cujus horum opera fecerit rex, ejus miniſter erit: igitur dum facit juſtitiam, vicarius eſt Regis æterni: miniſter autem diaboli, dum declinet ad injuriam. Ibid. l. 3.

licked that of Naboth, and eat Jezebel, who had contrived his murder. SECT. 9.
" But," ſays our author, " we muſt not look into his deeds, much leſs
" oppoſe them." Muſt not David look into Saul's deeds, nor oppoſe them? Why did he then bring together as many men as he could to oppoſe, and make foreign alliances againſt him, even with the Moabites, and the accurſed Philiſtines? Why did Jehu not only deſtroy Ahab's houſe, but kill the king of Judah, and his forty brothers, only for going to viſit his children? Our author may perhaps ſay, becauſe God commanded them. But if God commanded them to do ſo, he did not command them, and all mankind, not to do ſo; and if he did not forbid, they have nothing to reſtrain them from doing the like, unleſs they have made municipal laws of their own to the contrary, which our author and his followers may produce when they can find them.

His next work is, to go back again, to the tribute paid by Chriſt to Cæſar, and judiciouſly to infer, that all nations muſt pay the ſame duty to their magiſtrates, as the Jews did to the Romans, who had ſubdued them. " Chriſt did not," ſays he, " aſk what the law of the land
" was, nor inquire whether there was a ſtatute againſt it, nor whether
" the tribute were given by the conſent of the people, but upon ſight
" of the ſuperſcription concluded, &c." It had been ſtrange, if Chriſt had inquired after their laws, ſtatutes, or conſent, when he knew, that their commonwealth, with all the laws by which it had ſubſiſted, was aboliſhed; and that Iſrael was become a ſervant to thoſe, who exerciſed a moſt violent domination over them; which, being a peculiar puniſhment for their peculiar ſins, can have no influence upon nations, that are not under the ſame circumſtances.

But of all that he ſays, nothing is more incomprehenſible, than what he can mean by lawful kings, to whom all is due that was due to the Roman uſurpers. For lawful kings are kings by the law: in being kings by the law, they are ſuch kings as the law makes them; and that law only muſt tell us what is due to them; or by a univerſal patriarchical right, to which no man can have a title, as is ſaid before, till he prove himſelf to be the right heir of Noah. If neither of theſe are to be regarded, but that right follows poſſeſſion, there is no ſuch thing as a uſurper; he who has the power has the right, as indeed Filmer ſays; and his wiſdom, as well as his integrity, is ſufficiently declared by the aſſertion.

This wicked extravagancy is followed by an attempt of as ſingular ignorance and ſtupidity, to ſhuffle together uſurpers and conquerors, as if they were the ſame; whereas, there have been many uſurpers, who were not conquerors, and conquerors, that deſerved not the name of uſurpers. No wiſe man ever ſaid, that Agathocles or Dionyſius conquered Syracuſe; Tarquin, Galba, or Otho, Rome; Cromwel, England; or that the magi, who ſeized the government of Perſia, after the death of Cambyſes, conquered that country. When Moſes and Joſhua had overthrown the kingdoms of the Amorites, Moabites, and Cananites; or when David ſubdued the Ammonites, Edomites, and others; none, as I ſuppoſe, but ſuch divines as Filmer, will ſay they uſurped a dominion over them. There is ſuch a thing amongſt men as juſt war, or elſe true valour would not be a

CHAP. III. virtue, but a crime; and inſtead of glory, the utmoſt infamy would always be the companion of victory. There are, ſays * Grotius, laws of war, as well as of peace. He who for a juſt cauſe, and by juſt means, carries on a juſt war, has as clear a right to what is acquired as can be enjoyed by man; but all uſurpation is deteſtable and abominable.

SECT. X.

The words of St. Paul, injoining obedience to higher powers, favour all ſorts of governments, no leſs than monarchy.

OUR author's next quarrel is with St. Paul, "who did not," as he ſays, "in injoining ſubjection to the higher powers, ſignify the "laws of the land, or mean the higheſt powers, as well ariſtocratical "and democratical as regal, but a monarch that carries the ſword, &c." But what if there be no monarch in the place? or what if he do not carry the ſword? Had the apoſtle ſpoken in vain, if the liberty of the Romans had not been overthrown by the fraud and violence of Cæſar? Was no obedience to be exacted whilſt that people enjoyed the benefit of their own laws, and virtue flouriſhed under the moderate government of a legal and juſt magiſtracy, eſtabliſhed for the common good, by the common conſent of all? Had God no miniſter amongſt them, till law and juſtice was overthrown, the beſt part of the people deſtroyed by the fury of a corrupt mercenary ſoldiery, and the world ſubdued under the tyranny of the worſt monſters, that it had ever produced? Are theſe the ways of eſtabliſhing God's vicegerents? And will he patronize no governors or governments, but ſuch as theſe? Does God uphold evil, and that only? If the world has been hitherto miſtaken, in giving the name of evil to that which is good, and calling that good which is evil; I deſire to know, what can be called good amongſt men, if the government of the Romans, till they entered Greece and Aſia, and were corrupted by the luxury of both, do not deſerve that name? Or what is to be eſteemed evil, if the eſtabliſhment and exerciſe of the Cæſars power were not ſo? But ſays he, "Wilt thou not be afraid of the power?" And was there no power in the governments, that had no monarchs? Were the Carthaginians, Romans, Grecians, Gauls, Germans, and Spaniards, without power? Was there no ſword in that nation, and their magiſtrates, who overthrew the kingdoms of Armenia, Egypt, Numidia, Macedon, and many others, whom none of the monarchs were able to reſiſt? Are the Venetians, Switzers, Griſons, and Hollanders, now left in the ſame weakneſs, and no obedience at all due to their magiſtrates? If this be ſo, how comes it to paſs, that juſtice is ſo well adminiſtred amongſt them? Who is it that defends the Hollanders in ſuch a manner, that the greateſt monarchs, with all their ſwords, have had no great reaſon to boaſt of any advantages gained againſt them? At leaſt till we (whom they could not reſiſt, when we had no monarch, tho' we

* Belli æque ac pacis jura. De jur. bel. & pac.

we have been diſgracefully beaten by them ſince we had one) by making leagues againſt them, and ſowing diviſions amongſt them, inſtigated and aſſiſted the greateſt power now in the world to their deſtruction and our own. But our author is ſo accuſtomed to fraud, that he never cites a paſſage of ſcripture, which he does not abuſe or vitiate; and that he may do the ſame in this place, he leaves out the following words, "For there is no power but of God," that he might intitle one ſort only to his protection. If therefore the people and popular magiſtrates of Athens; the two kings, ephori, and ſenate of Sparta; the ſanhedrins amongſt the Hebrews; the conſuls, tribunes, prætors, and ſenate of Rome; the magiſtrates of Holland, Switzerland, and Venice; have or had power, we may conclude, that they alſo were ordained by God; and that, according to the precept of the apoſtle, the ſame obedience, for the ſame reaſon, is due to them as to any monarch. SECT. 10.

The apoſtle, farther explaining himſelf, and ſhewing, who may be accounted a magiſtrate, and what the duty of ſuch a one is, informs us, when we ſhould fear, and on what account. "Rulers," ſays he, "are "not a terror to good works, but to the evil: wilt thou then not "be afraid of the power? Do that which is good, and thou ſhalt "have praiſe of the ſame; for he is the miniſter of God, a revenger "to execute wrath upon him that doth evil." He therefore is only the miniſter of God, who is not a terror to good works, but to evil; who executes wrath upon thoſe that do evil, and is a praiſe to thoſe that do well. And he who doth well, ought not to be afraid of the power; for he ſhall receive praiſe. Now if our author were alive, tho' he was a man of a hard forehead, I would aſk him, whether in his conſcience he believed, that Tiberius, Caligula, Claudius, Nero, and the rabble of ſucceeding monſters, were a praiſe to thoſe who did well, and a terror to thoſe who did ill; and not the contrary, a praiſe to the worſt, and a terror to the beſt men of the world? Or for what reaſon * Tacitus could ſay, that virtue brought men who lived under them to certain deſtruction, and recite ſo many examples of the brave and good, who were murdered by them for being ſo, unleſs they had endeavoured to extinguiſh all that was good, and to † tear up virtue by the roots? Why did he call Domitian an ‡ enemy to virtue, if he was a terror only to thoſe that did evil? If the world has hitherto been miſled in theſe things, and given the name of virtue to vice, and of vice to virtue, then Germanicus, Valerius Aſiaticus, Corbulo, Helvidius Priſcus, Thraſeas, Soranus, and others, that reſembled them, who fell under the rage of thoſe beaſts, nay, Paul himſelf, and his diſciples, were evil doers; and Macro, Narciſſus, Pallas, Vinnius, Laco, and Tigellinus, were virtuous and good men. If this be ſo, we are beholden to Filmer, for admoniſhing mankind of the error in which they had ſo long continued. If not, thoſe who perſecuted and murdered them for their virtues, were not a terror to ſuch as did evil, and a praiſe to thoſe who did well. The worſt men had no need to fear them;

* Ob virtutes certiſſimum exitium. Hiſt. l. i. c. 2.
† Ipſam exſcindere virtutem. Ann. l. xvi. c. 21.
‡ Virtutibus infeſtum.

but

CHAP. III. but the beſt had, becauſe they were the beſt. All princes, therefore, that have power, are not to be eſteemed equally the miniſters of God. They that are ſo, muſt receive their dignity from a title, that is not common to all, even from a juſt employment of their power to the encouragement of virtue, and to the diſcouragement of vice. He that pretends to the veneration and obedience due to the miniſters of God, muſt by his actions manifeſt, that he is ſo. And tho' I am unwilling to advance a propoſition, that may ſound harſhly to tender ears, I am inclined to believe, that the ſame rule, which obliges us to yield obedience to the good magiſtrate, who is the miniſter of God, and aſſures us, that in obeying him we obey God, does equally oblige us not to obey thoſe, who make themſelves the miniſters of the devil, leſt in obeying them we obey the devil, whoſe works they do.

That none, but ſuch as are wilfully ignorant, may miſtake Paul's meaning, Peter, who was directed by the ſame ſpirit, ſays diſtinctly, "Submit yourſelves to every ordinance of man for the Lord's ſake." If therefore there be ſeveral ordinances of men tending to the ſame end, that is, the obtaining of juſtice, by being a terror to the evil, and a praiſe to the good, the like obedience is for conſcience ſake injoined to all, and upon the ſame condition. But, as no man dares to ſay, that Athens and Perſia, Carthage and Egypt, Switzerland and France, Venice and Turky, were and are under the ſame government; the ſame obedience is due to the magiſtrate in every one of thoſe places, and all others on the ſame account, whilſt they continue to be the miniſters of God.

If our author ſay, that Peter cannot comprehend kings under the name of human ordinances, ſince Paul ſays, they are the ordinance of God, I may as well ſay, that Paul cannot call that the ordinance of God, which Peter calls the ordinance of man. But as it was ſaid of Moſes and Samuel, that they who ſpoke by the ſame ſpirit could not contradict each other, Peter and Paul, being full of wiſdom and ſanctity, and inſpired by the ſame ſpirit, muſt needs ſay the ſame thing; and Grotius ſhews, that they perfectly agree, tho' the one calls kings, rulers, and governors, the ordinance of man, and the other, the ordinance of God; inaſmuch as God having from the beginning ordained, that men ſhould not live like wolves in woods, every man by himſelf, but together in civil ſocieties, left to every one a liberty of joining with that ſociety which beſt pleaſed him, and to every ſociety to create ſuch magiſtrates, and frame ſuch laws, as ſhould ſeem moſt conducing to their own good, according to the meaſure of light and reaſon they might have. And every magiſtracy ſo inſtituted might rightly be called the ordinance of man, who was the inſtituter, and the ordinance of God, according to which it was inſtituted; "* becauſe," ſays he, "God "approved and ratified the ſalutary conſtitutions of government made "by men."

But, ſays our author, Peter expounds his own words of the human ordinance to be the king, who is the "lex loquens;" but he ſays no ſuch thing, and I do not find, that any ſuch thought ever entered into the apoſtle's mind. The words are often found in the works of Plato and Ariſtotle, but applied only to ſuch a man as is a king by

* Quia ſalubrem hominum conſtitutionem Deus probavit & ſanxit. De jur. bel. & pac.

by nature, who is endowed with all the virtues that tend to the good of human ſocieties in a greater meaſure than any or all thoſe that compoſe them; which character, I think, will be ill applied to all kings. And that this may appear to be true, I deſire to know whether it would well have agreed with Nero, Caligula, Domitian, or others like to them; and if not with them, then not with all, but only with thoſe who are endowed with ſuch virtues. But if the king be made by man, he muſt be ſuch as man makes him to be; and if the power of a law had been given by any human ſanction to the word of a fooliſh, mad, or wicked man (which I hardly believe), it would be deſtroyed by its own iniquity and turpitude, and the people left under the obligation of rendering obedience to thoſe, who ſo uſe the ſword, that the nations under them may live ſoberly, peaceably, and honeſtly. SECT. 10.

This obliges me a little to examine what is meant by the ſword. The pope ſays there are two ſwords, the one temporal, the other ſpiritual; and that both of them were given to Peter, and to his ſucceſſors. Others more rightly underſtand the two ſwords to be that of war, and that of juſtice, which, according to ſeveral conſtitutions of governments, have been committed to ſeveral hands, under ſeveral conditions and limitations. The ſword of juſtice comprehends the legiſlative and the executive power: the one is exerciſed in making laws, the other in judging controverſies according to ſuch as are made. The military ſword is uſed by thoſe magiſtrates who have it, in making war, or peace, with whom they think fit, and ſometimes by others who have it not, in purſuing ſuch wars as are reſolved upon by another power. The Jewiſh doctors generally agree, that the kings of Judah could make no law, becauſe there was a curſe denounced againſt thoſe who ſhould add to, or detract from, that which God has given by the hand of Moſes; that they might ſit in judgment with the high-prieſt and ſanhedrin; but could not judge by themſelves, unleſs the ſanhedrin did plainly fail of performing their duty. Upon this account Maimonides excuſes David for commanding Solomon not to ſuffer the grey hairs of Joab to go down to the grave in peace, and Solomon for appointing him to be killed at the foot of the altar: for he having killed Abner and Amaſa, and by thoſe actions ſhed the blood of war in time of peace, the ſanhedrin ſhould have puniſhed him; but, being protected by favour or power, and even David himſelf fearing him, Solomon was put in mind of his duty, which he performed, tho' Joab laid hold upon the horns of the altar, which, by the expreſs words of the law, gave no protection to willful murderers.

The uſe of the military ſword amongſt them was alſo moderated. Their kings might make war upon the ſeven accurſed nations that they were commanded to deſtroy, and ſo might any other man; for no peace was to be made with them: but not againſt any other nation, without the aſſent of the ſanhedrin. And when Amaziah, contrary to that law, had fooliſhly made war upon Joaſh king of Iſrael, and thereby brought a great ſlaughter upon Judah, the princes, that is, the ſanhedrin, combined againſt him, purſued him to Lachiſh, and killed him there.

CHAP. III.

The legiſlative power of Sparta was evidently in the people. The laws that go under the name of Lycurgus, were propoſed by him to the general aſſembly of the people, and from them received their authority: but the diſcipline they contained was of ſuch efficacy for framing the minds of men to virtue, and by baniſhing ſilver and gold they ſo far baniſhed all manner of crimes, that from the inſtitution of thoſe laws to the times of their corruption, which was more than eight hundred years, we hardly find, that three men were put to death, of whom two were kings; ſo that it ſeems difficult to determine where the power of judging did reſide, tho' it is moſt probable, conſidering the nature of their government, that it was in the ſenate, and, in caſes extraordinary, in the ephori, with a right of appealing to the people. Their kings therefore could have little to do with the ſword of juſtice, neither the legiſlative nor the judicial power being any-ways in them.

Plut. vit. Lycur.

The military ſword was not much more in their power, unleſs the excellency of their virtues gave them the credit of perſuading, when the law denied the right of commanding. They were obliged to make war againſt thoſe, and thoſe only, who were declared enemies by the ſenate and ephori, and in the manner, place, and time, they directed: ſo that Ageſilaus, tho' carrying on a glorious war in Perſia, no ſooner received the parchment-roll, wherein he was commanded by the ephori to come home for the defence of his own country, than he immediately returned, and is on that account called by no leſs a man than Xenophon, a good and faithful king, rendering obedience to the laws of his country.

De reg. Ageſil.

By this it appears, that there are kings who may be feared by thoſe that do ill, and not by ſuch as do well; for, having no more power than what the law gives, and being obliged to execute it as the law directs, they cannot depart from the precept of the apoſtle. My own actions therefore, or the ſenſe of my own guilt ariſing from them, is to be the meaſure of my fear of that magiſtrate who is the miniſter of God, and not his power.

The like may be ſaid of almoſt all the nations of the world, that have had any thing of civil order amongſt them. The ſupreme magiſtrate, under what name ſoever he was known, whether king, emperor, aſymnetes, ſuffetes, conſul, dictator, or archon, has uſually a part aſſigned to him in the adminiſtration of juſtice, and making war; but that he may know it to be aſſigned, and not inherent, and ſo aſſigned as to be employed for the public good, not to his own profit or pleaſure, it is circumſcribed by ſuch rules as he cannot ſafely tranſgreſs. This is above all ſeen in the German nations, from whom we draw our original and government; and is ſo well deſcribed by Tacitus in his treatiſe of their cuſtoms and manners, that I ſhall content myſelf to refer to it, and to what I have cited from him in the former part of this work. The Saxons, coming into our country, retained to themſelves the ſame rights. They had no kings but ſuch as were ſet up by themſelves, and they abrogated their power when they pleaſed. * Offa acknowledged, "that he was choſen for the "defence

De morib. Germ.

* Ad libertatis veſtræ tuitionem non meis meritis, ſed ſola liberalitate veſtra.

" defence of their liberty, not from his own merit, but by their favour;" and in the " conventus pananglicus," at which all the chief men, as well ſecular as eccleſiaſtical, were preſent, it was decreed by the king, archbiſhops, biſhops, abbots, dukes, and ſenators, that the kings ſhould be choſen by the prieſts, and by the elders of the people. In purſuance of which, Egbert, who had no right to the ſucceſſion, was made king. Ethelwerd was choſen in the ſame manner (*a*) by the conſent of all. Ethelwolf a monk, for want of a better, was advanced to the ſame honour. His ſon Alfred, tho' crowned by the pope, and marrying without the conſent of the nobility and kingdom, (*b*) againſt their cuſtoms and ſtatutes, acknowledged, that he had received the crown from the bounty of the princes, elders, and people; and in his will declared, that he left the people as he had found them, free as the inward thoughts of man. His ſon Edward (*c*) was elected to be his ſucceſſor. Ethelſtan, tho' a baſtard, and without all title, was elected by the conſent of the nobility and people. Eadred, by the ſame authority, was elected and preferred before the ſons of Edmund his predeceſſor. Edwin, tho' rightly choſen, was depoſed for his ill life, and Edgar (*d*) elected king, by " the will of God, and " conſent of the people." But he alſo was deprived of the crown for the rape of a nun, and after ſeven years reſtored by the whole people, " coram omni multitudine populi Anglorum." Ethelred, who is ſaid to have been (*e*) cruel in the beginning, wretched in the courſe, and infamous in the end of his reign, was depoſed by the ſame power that had advanced him. Canutus made a (*f*) contract with the princes, and the whole people, and thereupon was, by general conſent, crowned king, over all England. After him Harold was choſen in the uſual manner. He being dead, a meſſage was ſent to Hardi-Canute, with an offer of the crown, which he accepted, and accordingly was received. Edward the Confeſſor was (*g*) elected king with the conſent of the clergy and people at London; and Harold excuſed himſelf for not performing his oath to William the Norman, becauſe he ſaid he had made it unduly and preſumptuouſly, (*h*) without conſulting the nobility and people, and without their authority. William was received with great joy by the clergy and people, and ſaluted king by all, ſwearing to obſerve the antient good and approved laws of England: and tho' he did but ill perform his oath, yet before his death he ſeemed to repent of the ways he had taken, and only wiſhing his ſon might be king of England, he confeſſed in his laſt will, made at Caen in Normandy, (*i*) that he neither found nor left the kingdom as an inheritance. If he poſſeſſed no right except what was conferred upon him, no more was conferred than had been enjoyed by the

SECT. 10

(*a*) Omnium conſenſu.
(*b*) Contra morem & ſtatuta.
(*c*) Succeſſor monarchiæ electus.
(*d*) Et eligerunt, Deo dictante, Edgarum in Regem, annuente populo.
(*e*) Sævus in principio, miſer in medio, turpis in exitu.
(*f*) Canutus fœdus cum principibus & omni populo, & illi cum ipſo percuſſerunt.
(*g*) Annuente clero & populo Londini, in regem eligitur.
(*h*) Abſque generali ſenatus & populi conventu & edicto. Matth. Pariſ. Gul. Gemit. &c.
(*i*) Neminem Anglici regni conſtituo hæredem: non enim tantum decus hæreditario jure poſſedi. Ibid.

antient

CHAP. III. antient kings, according to the approved laws, which he ſwore to obſerve. Thoſe laws gave no power to any, till he was elected; and that which they did then give was ſo limited, that the nobility and people reſerved to themſelves the diſpoſition of the greateſt affairs, even to the depoſition and expulſion of ſuch as ſhould not well perform the duty of their oaths and office. And I leave it to our author to prove, how they can be ſaid to have had the ſword, and the power, ſo as to be feared, otherwiſe than, as the apoſtle ſays, by thoſe that do evil; which we acknowledge to be not only in the king, but in the loweſt officer of juſtice in the world.

If it be pretended, that our later kings are more to be feared than William the Norman, or his predeceſſors, it muſt not be, as has been proved, either from the general right of kings, or from the doctrine of the apoſtle, but from ſomething elſe, that is peculiar and ſubſequent, which I leave our author's diſciples to prove, and an anſwer may be found in due time. But to ſhew, that our anceſtors did not miſtake the words of the apoſtle, it is good to conſider when, to whom, and upon what occaſion, he ſpoke. The chriſtian religion was then in its infancy: his diſcourſes were addreſſed to the profeſſors of it, who, tho' they ſoon grew to be conſiderable in number, were, for the moſt part, of the meaneſt ſort of people, ſervants, or inhabitants of the cities, rather than citizens and freemen; joined in no civil body or ſociety, nor ſuch as had or could have any part in the government. The occaſion was, to ſuppreſs the dangerous miſtake of many converted Jews, and others, who, knowing themſelves to be freed from the power of ſin and the devil, preſumed they were alſo freed from the obligation of human laws. And if this error had not been cropped in the bud, it would have given occaſion to their enemies (who deſired nothing more) to deſtroy them all; and who, knowing that ſuch notions were ſtirring among them, would have been glad, that they who were not eaſily to be diſcovered, had by that means diſcovered themſelves.

This induced a neceſſity of diverting a poor, mean, ſcattered people from ſuch thoughts concerning the ſtate; to convince them of the error into which they were fallen, that Chriſtians did not owe the ſame obedience to civil laws and magiſtrates as other men, and to keep them from drawing deſtruction upon themſelves by ſuch ways, as not being warranted by God, had no promiſe of his protection. St. Paul's work was to preſerve the profeſſors of chriſtianity, as appears by his own words; "I exhort, that firſt of all, ſupplications, "prayers, interceſſions, and giving of thanks, be made for all men: "for kings, and for all that are in authority, that we may live a quiet "and peaceable life, in all godlineſs and honeſty. Put them in mind "to be ſubject to principalities and powers, to obey magiſtrates, to be "ready for every good work." St. Peter agrees with him fully in deſcribing the magiſtrate, and his duty; ſhewing the reaſons why obedience ſhould be paid to him, and teaching chriſtians to be humble, and contented with their condition, as free, yet not uſing their liberty for a cover to malice; and not only to fear God, and honour the king (of which conjunction of words ſuch as Filmer are very proud), but to honour all men, as is ſaid in the ſame verſe. This was, in a peculiar manner,

1 Tim. ii.

Tit. iii.

manner, the work of that time, in which thoſe who were to preach and propagate the goſpel, were not to be diverted from that duty, by entangling themſelves in the care of ſtate-affairs: but it does in ſome ſenſe agree with all times; for it can never be the duty of a good man to oppoſe ſuch a magiſtrate, as is the miniſter of God, in the exerciſe of his office, nor to deny to any man that which is his due. SECT. 10.

But as the Chriſtian law exempts no man from the duty he owes to his father, maſter, or the magiſtrate, it does not make him more a ſlave than he was before, nor deprive him of any natural or civil right; and if we are obliged to pay tribute, honour, or any other thing, where it is not due, it muſt be by ſome precept very different from that which commands us to give to Cæſar that which is Cæſar's. If he define the magiſtrate to be the miniſter of God doing juſtice, and from thence draw the reaſons he gives for rendering obedience to him, we are to inquire, whoſe miniſter he is who overthrows it, and look for ſome other reaſon for rendering obedience to him, than the words of the apoſtles. If David, who was willing to lay down his life for the people, who "hated iniquity," and would not "ſuffer a "lyer to come into his preſence," was the miniſter of God, I deſire to know, whoſe miniſter Caligula was, who ſet up himſelf to be worſhiped for a God, and would at once have deſtroyed all the people, that he ought to have protected? Whoſe miniſter was Nero, who, beſides the abominable impurities of his life, and hatred to all virtue, as contrary to his perſon and government, ſet fire to the great city? If it be true, that "contrariorum contraria eſt ratio," theſe queſtions are eaſily decided; and if the reaſons of things are eternal, the ſame diſtinction, grounded upon truth, will be good for ever. Every magiſtrate, and every man by his works, will for ever declare whoſe miniſter he is, in what ſpirit he lives, and conſequently what obedience is due to him according to the precept of the apoſtle. If any man aſk, what I mean by juſtice, I anſwer, That the law of the land, as far as it is "ſanctio recta, jubens honeſta, prohibens contraria," declares what it is. Cicero. But there have been and are laws, that are neither juſt nor commendable. There was a law in Rome, that no god ſhould be worſhiped without the conſent of the ſenate: upon which, Tertullian ſays ſcoffingly, "* That God ſhall not be God, unleſs he "pleaſe man;" and, by virtue of this law, the firſt Chriſtians were expoſed to all manner of cruelties; and ſome of the emperors (in other reſpects excellent men) moſt foully polluted themſelves, and their government, with innocent blood. Antoninus Pius was taken in this ſnare; and Tertullian bitterly derides Trajan, for glorying in his clemency, when he had commanded Pliny, who was proconſul in Aſia, not to make any ſearch for Chriſtians, but only to puniſh them according to law, when they ſhould be brought before him. No municipal law can be more firmly eſtabliſhed by human authority, than that of the inquiſition in Spain, and other places: and thoſe accurſed tribunals, which have ſhed more Chriſtian blood than all the pagans, that ever were in the world, is commonly called "the holy office." If a gentleman in Poland kill a peaſant, he is by

* Niſi homini Deus placuerit, Deus non erit.

a law now in uſe free from puniſhment, if he lay a ducat upon the dead body. Evenus the Third, king of Scotland, cauſed a law to paſs, by which the wives and daughters of noblemen were expoſed to his luſt, and thoſe of the commons to the luſt of the nobility. Theſe, and an infinite number of others like to them, were not right ſanctions, but ſuch as have produced unſpeakable miſchiefs and calamities. They were not therefore laws: the name of juſtice is abuſively attributed to them: thoſe that govern by them cannot be the miniſters of God: and the apoſtle, commanding our obedience to the miniſter of God for our good, commands us not to be obedient to the miniſter of the devil to our hurt; for we cannot ſerve two maſters.

SECT. XI.

That which is not juſt, is not law; and that which is not law, ought not to be obeyed.

OUR author, having for a long time pretended conſcience, now pulls off his maſk, and plainly tells us, that it is not on account of conſcience, but for fear of puniſhment, or hopes of reward, that laws are to be obeyed. "That familiar diſtinction of the ſchoolmen," ſays he, "whereby they ſubject kings to the directive, but not to the "coactive power of the law, is a confeſſion, that kings are not bound "by the poſitive laws of any nation, ſince the compulſory power of "laws is that which properly makes laws to be laws." Not troubling myſelf with this diſtinction of the ſchoolmen, nor acknowledging any truth to be in it, or that they are competent judges of ſuch matters, I ſay, that if it be true, our author's concluſion is altogether falſe; for the directive power of the law, which is certain, and grounded upon the inherent good and rectitude that is in it, is that alone which has a power over the conſcience, whereas the coercive is merely contingent; and the moſt juſt powers, commanding the moſt juſt things, have ſo often fallen under the violence of the moſt unjuſt men, commanding the moſt execrable villainies, that if they were therefore to be obeyed, the conſciences of men muſt be regulated by the ſucceſs of a battle or conſpiracy, than which nothing can be affirmed more impious and abſurd. By this rule, David was not to be obeyed, when by the wickedneſs of his ſon he was driven from Jeruſalem, and deprived of all coercive power; and the conſcientious obedience that had been due to him, was transferred to Abſalom, who ſought his life, And in St. Paul's time it was not from him, who was guided only by the Spirit of God, and had no manner of coercive power, that Chriſtians were to learn their duty, but from Caligula, Claudius, and Nero, who had that power well eſtabliſhed by the mercenary legions. If this were ſo, the governments of the world might be juſtly called "magna latrocinia;" and men, laying aſide all conſideration of reaſon or juſtice, ought only to follow thoſe, who can inflict the greateſt puniſhments, or give the greateſt rewards. But ſince the reception of

of ſuch opinions would be the extirpation of all that can be called good, we muſt look for another rule of our obedience; and ſhall find that to be the law, which being, as I ſaid before, "ſanctio recta," muſt be founded upon that eternal principle of reaſon and truth, from whence the rule of juſtice, which is ſacred and pure, ought to be deduced, and not from the depraved will of man, which fluctuating according to the different intereſts, humours, and paſſions, that at ſeveral times reign in ſeveral nations, one day abrogates what had been enacted the other. The ſanction therefore, that deſerves the name of a law, "which derives not its excellency from antiquity, or from the "dignity of the legiſlators, but from an intrinſic equity and juſtice," ought to be made, in purſuance of that univerſal reaſon, to which all nations, at all times, owe an equal veneration and obedience. By this we may know, whether he who has the power does juſtice or not: whether he be the miniſter of God to our good, a protector of good, and a terror to ill men; or the miniſter of the devil to our hurt, by encouraging all manner of evil, and endeavouring, by vice and corruption, to make the people worſe, that they may be miſerable, and miſerable, that they may be worſe. I dare not ſay, I ſhall never fear ſuch a man, if he be armed with power: but I am ſure I ſhall never eſteem him to be the miniſter of God, and ſhall think I do ill if I fear him. If he has therefore a coercive power over me, it is through my weakneſs; "for * he that will ſuffer himſelf to be com-"pelled, knows not how to die." If therefore he who does not follow the directive power of the law, be not the miniſter of God, he is not a king, at leaſt not ſuch a king as the apoſtle commands us to obey: and if that ſanction, which is not juſt, be not a law, and can have no obligation upon us, by what power ſoever it be eſtabliſhed, it may well fall out, that the magiſtrate, who will not follow the directive power of the law, may fall under the coercive, and then the fear is turned upon him, with this aggravation, that it is not only actual, but juſt. This was the caſe of Nero; the coercive power was no longer in him, but againſt him. He that was forced to fly, and to hide himſelf, that was abandoned by all men, and condemned to die "† according to antient cuſtom," did, as I ſuppoſe, fear, and was no-way to be feared. The like may be ſaid of Amaziah king of Judah, when he fled to Lachiſh; of Nabuchodonoſor, when he was driven from the ſociety of men; and of many emperors and kings of the greateſt nations in the world, who have been ſo utterly deprived of all power, that they have been impriſoned, depoſed, confined to monaſteries, killed, drawn thro' the ſtreets, cut in pieces, thrown into rivers, and indeed ſuffered all that could be ſuffered by the vileſt ſlaves.

SECT. II.

Tertul.

If any man ſay theſe things ought not to have been done, an anſwer may be given in a proper place; though it were enough to ſay, that the juſtice of the world is not to be overthrown by a mere aſſertion without proof; but that is nothing to the preſent queſtion: for if it was ill done to drive Nero to deſpair, or to throw Vitellius into the common ſewer, it was not becauſe they were the miniſters of God;

* Qui cogi poteſt, neſcit mori.

† More majorum. Sueton. vit. Ner. c. xlix.

for

CHAP. III. for their lives were no-way conformable to the character which the apoſtle gives to thoſe who deſerve that ſacred name. If thoſe only are to be feared who have the power, there was a time when they were not to be feared, for they had none; and if thoſe princes are not obliged by the law, who are not under the coercive power, it gave no exemption to thoſe, for they fell under it: and as we know not what will befal others who walk in their ſteps, till they are dead, we cannot till then know whether they are free from it or not.

SECT. XII.

The right and power of a magiſtrate depends upon his inſtitution, not upon his name.

IT is uſual with impoſtors to obtrude their deceits upon men, by putting falſe names upon things, by which they may perplex mens minds, and from thence deduce falſe concluſions. But the points above-mentioned being ſettled, it imports little whether the governors, to whom Peter injoins obedience, were only kings, and ſuch as are employed by them, or all ſuch magiſtrates as are the miniſters of God; for he informs us of their works, that we may know them, and accordingly yield obedience to them. This is that therefore which diſtinguiſhes the magiſtrate to whom obedience is due, from him to whom none is due, and not the name that he either aſſumes, or others put upon him. But if there be any virtue in the word king, and that the admirable prerogatives, of which our author dreams, were annexed to that name, they could not be applied to the Roman emperors, nor their ſubſtituted officers, for they had it not. It is true, Mark Antony, in a drunken fit, at the celebration of the impure Lupercalia, did offer a diadem to Julius Cæſar, which ſome flatterers preſſed him to accept (as our great lawyers did Cromwell) but he durſt not think of putting it upon his head. Caligula's affectation of that title, and the enſigns of royalty he wore, were taken for the moſt evident marks of his madneſs: and tho' the greateſt and braveſt of their men had fallen by the wars or proſcriptions; tho' the beſt part of the ſenate had periſhed in Theſſaly; tho' the great city was exhauſted, and Italy brought to deſolation, yet they were not reduced ſo low as to endure a king. Piſo was ſufficiently addicted to Tiberius, yet he could not ſuffer, that Germanicus ſhould be treated as the ſon of a king; "principis Romani, non Parthorum regis filio "has epulas dari." And whoever underſtands the Latin tongue, and the hiſtory of thoſe times, will eaſily perceive, that the word "princeps" ſignified no more than a principal or eminent man, as has been already proved: and the words of Piſo could have no other meaning, than that the ſon of a Roman ought not to be diſtinguiſhed from others, as the ſons of the Parthian kings were. This is verified by his letter to Tiberius, under the name of friend, and the anſwer of Tiberius promiſing

Tacit. ann. ii. c. 57.

miſing to him * " whatſoever one friend could do for another." Here was no mention of majeſty, or ſovereign Lord, nor the baſe ſubſcriptions of ſervant, ſubject, or creature. And I fear, that as the laſt of thoſe words was introduced amongſt us by our biſhops, the reſt of them had been alſo invented by ſuch Chriſtians as were too much addicted to the Aſiatic ſlavery. However, the name of king was never ſolemnly aſſumed by, nor conferred upon, thoſe emperors; and could have conferred no right, if it had. They exerciſed as they pleaſed, or as they durſt, the power that had been gained by violence or fraud. The exorbitances they committed, could not have been juſtified by a title, any more than thoſe of a pirate, who ſhould take the ſame. It was no otherwiſe given to them than by way of aſſimilation, when they were guilty of the greateſt crimes: and Tacitus, deſcribing the deteſtable luſt of Tiberius, ſays, " Quibus adeo in- Annal. l. vi. " domitis exarſerat, ut more regio pubem ingenuam ſtupris pollueret; c. 1. " nec formam tantum, & decora corporis, ſed in his modeſtam " pueritiam, in aliis majorum imagines, incitamentum cupiditatis " habebat." He alſo informs us, that Nero took his time to put Bareas Soranus to death, who was one of the moſt virtuous men of that age, when Tiridates king of Armenia was at Rome; † " that " he might ſhew the imperial grandeur by the ſlaughter of the moſt " illuſtrious men, which he accounted a royal action." I leave it to the judgment of all wiſe men, whether it be probable, that the apoſtles ſhould diſtinguiſh ſuch as theſe from other magiſtrates; and dignify thoſe only with the title of God's miniſters, who diſtinguiſhed themſelves by ſuch ways; or that the ſucceeding emperors ſhould be ennobled with the ſame prerogative, who had no other title to the name, than by reſembling thoſe that had it in ſuch things as theſe. If this be too abſurd and abominable to enter into the heart of a man, it muſt be concluded, that their intention was only to divert the poor people to whom they preached, from involving themſelves in the care of civil matters, to which they had no call. And the counſel would have been good (as things ſtood with them), if they had been under the power of a pirate, or any other villain, ſubſtituted by him.

SECT. 12.

But tho' the apoſtles had looked upon the officers ſet over the provinces belonging to the Roman empire, as ſent by kings, I deſire to know, whether it can be imagined, that they could think the ſubordinate governors to be ſent by kings, in the countries that had no kings; or that obedience became due to the magiſtrates in Greece, Italy, or other provinces under the juriſdiction of Rome, only after they had emperors, and that none was due to them before? The Germans had then no king: the brave Arminius had been lately killed for aiming at a crown. When he had blemiſhed all his virtues by that attempt, they forgot his former ſervices. They never conſidered how many Roman legions he had cut in pieces, nor how many thouſands of their allies he had deſtroyed. His valour was a crime deſerving death, when he ſought to make a prey of his country, which he had ſo bravely defended, and to enſlave thoſe who with

* Quod amicus amico præſtare poteſt. Tacit.

† Ut magnitudinem imperatoriam cæde inſignium virorum quaſi regio facinore oſtentaret. An. l. xvi. c. 23.

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him had fought for the public liberty. But if the apoſtles were to be underſtood to give the name of God's miniſters only to kings, and thoſe who are employed by them, and that obedience is due to no other, a domeſtic tyrant had been their greateſt benefactor. He had ſet up the only government that is authorized by God, and to which a conſcientious obedience is due. Agathocles, Dionyſius, Phalaris, Pheræus, Piſiſtratus, Nabis, Machanidas, and an infinite number of the moſt deteſtable villains that the world has ever produced, did confer the ſame benefits upon the countries they enſlaved. But if this be equally falſe, ſottiſh, abſurd, and execrable, all thoſe epithets belong to our author, and his doctrine, for attempting to depreſs all modeſt and regular magiſtracies, and endeavouring to corrupt the ſcripture to patronize the greateſt of crimes. No man therefore, who does not delight in error, can think, that the apoſtle deſigned preciſely to determine ſuch queſtions as might ariſe concerning any one man's right, or, in the leaſt degree, to prefer any one form of government before another. In acknowledging the magiſtrate to be man's ordinance, he declares, that man, who makes him to be, may make him to be what he pleaſeth; and tho' there is found more prudence and virtue in one nation than in another, that magiſtracy, which is eſtabliſhed in any one, ought to be obeyed, till they who made the eſtabliſhment think fit to alter it. All therefore, whilſt they continue, are to be looked upon with the ſame reſpect. Every nation, acting freely, has an equal right to frame their own government, and to employ ſuch officers as they pleaſe. The authority, right, and power, of theſe muſt be regulated by the judgment, right, and power, of thoſe who appoint them, without any relation at all to the name that is given; for that is no-way eſſential to the thing. The ſame name is frequently given to thoſe, who differ exceedingly in right and power; and the ſame right and power is as often annexed to magiſtracies, that differ in name. The ſame power which had been in the Roman kings, was given to the conſuls; and that which had been legally in the dictators, for a time not exceeding ſix months, was afterwards uſurped by the Cæſars, and made perpetual. The ſupreme power (which ſome pretend belongs to all kings) has been and is enjoyed in the fulleſt extent by ſuch as never had the name; and no magiſtracy was ever more reſtrained than thoſe that had the name of kings in Sparta, Arragon, England, Poland, and other places. They therefore that did thus inſtitute, regulate, and reſtrain, create magiſtracies, and give them names and powers, as ſeemed beſt to them, could not but have in themſelves the coercive as well as the directive over them: for the regulation and reſtriction is coercion; but moſt of all the inſtitution, by which they could make them to be or not to be. As to the exterior force, it is ſometimes on the ſide of the magiſtrate, and ſometimes on that of the people; and as magiſtrates, under ſeveral names, have the ſame work incumbent upon them, and the ſame power to perform it, the ſame duty is to be exacted from them, and rendered to them: which being diſtinctly proportioned by the laws of every country, I may conclude, that all magiſtratical power, being the ordinance of man, in purſuance of the ordinance of God, receives its being and meaſure from the legiſla-

tive

tive power of every nation. And whether the power be placed ſimply in one, a few, or many men; or in one body compoſed of the three ſimple ſpecies; whether the ſingle perſon be called king, duke, marquis, emperor, ſultan, mogul, or grand ſignor; or the number go under the name of ſenate, council, pregadi, diet, aſſembly of eſtates, and the like, it is the ſame thing. The ſame obedience is equally due to all, whilſt, according to the precept of the apoſtle, they do the work of God for our good: and if they depart from it, no one of them has a better title than the other to our obedience. SECT. 13.

SECT. XIII.

Laws were made to direct and inſtruct magiſtrates, and, if they will not be directed, to reſtrain them.

I Know not who they are, that our author introduces to ſay, that "the firſt invention of laws was, to bridle or moderate the over-"great power of kings;" and unleſs they give ſome better proof of their judgment in other things, ſhall little eſteem them. They ſhould have conſidered, that there are laws in many places where there are no kings; that there were laws in many before there were kings, as in Iſrael, the law was given three hundred years before they had any; but moſt eſpecially, that as no man can be a rightful king, except by law, nor have any juſt power, but from the law, if that power be found to be over-great, the law that gave it muſt have been before that which was to moderate, or reſtrain it; for that could not be moderated, which was not in being. Leaving therefore our author to fight with theſe adverſaries, if he pleaſe, when he finds them, I ſhall proceed to examine his own poſitions. "The truth is," ſays he, "the ori-"ginal of laws was, for the keeping of the multitude in order. Po-"pular eſtates could not ſubſiſt at all without laws, whereas king-"doms were governed many ages without them. The people of "Athens, as ſoon as they gave over kings, were forced to give power "to Draco firſt, then to Solon, to make them laws." If we will believe him therefore, whereſoever there is a king, or a man who, by having power in his hands, is in the place of a king, there is no need of law. He takes them all to be ſo wiſe, juſt, and good, that they are laws to themſelves, "leges viventes." This was certainly verified by the whole ſucceſſion of the Cæſars, the ten laſt kings of Pharamond's race, all the ſucceſſors of Charles the Great, and others, that I am not willing to name; but, referring myſelf to hiſtory, I deſire all reaſonable men to conſider, whether the piety and tender care, that was natural to Caligula, Nero, or Domitian, was ſuch a ſecurity to the nations that lived under them, as without law to be ſufficient for their preſervation: for, if the contrary appear to be true, and that their government was a perpetual exerciſe of rage, malice, and madneſs, by which the worſt of men were armed with power to deſtroy the beſt, ſo that the empire could only be ſaved by their deſtruction, it is moſt certain, that mankind can never fall into a condition, which ſtands more in need of laws to protect the innocent, than when ſuch monſters reign, who endea-

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endeavour their extirpation, and are too well furniſhed with means to accompliſh their deteſtable deſigns. Without any prejudice therefore to the cauſe that I defend, I might confeſs, that all nations were at the firſt governed by kings, and that no laws were impoſed upon thoſe kings, till they, or the ſucceſſors of thoſe, who had been advanced for their virtues, by falling into vice and corruption, did manifeſtly diſcover the inconveniences of depending upon their will. Beſides theſe, there are alſo children, women, and fools, that often come to the ſucceſſion of kingdoms, whoſe weakneſs and ignorance ſtands in as great need of ſupport and direction, as the deſperate fury of the others can do of reſtriction. And if ſome nations had been ſo ſottiſh, not to foreſee the miſchief of leaving them to their will, others, or the ſame in ſucceeding ages diſcovering them, could no more be obliged to continue in ſo pernicious a folly, than we are to live in that wretched barbarity, in which the Romans found our anceſtors, when they firſt entered this iſland.

If any man ſay, that Filmer does not ſpeak of monſters, nor of children, women, or fools, but of wiſe, juſt, and good princes; I anſwer, that if there be a right inherent in kings, as kings, of doing what they pleaſe, and in thoſe who are next in blood, to ſucceed them, and inherit the ſame, it muſt belong to all kings, and ſuch as upon title of blood would be kings. And as there is no family that may not, and does not often produce ſuch as I mentioned, it muſt alſo be acknowledged in them; and that power which is left to the wiſe, juſt, and good, upon a ſuppoſition, that they will not make an ill uſe of it, muſt be devolved to thoſe, who will not or cannot make a good one; but will either maliciouſly turn it to the deſtruction of thoſe they ought to protect, or through weakneſs ſuffer it to fall into the hands of thoſe that govern them, who are found by experience to be for the moſt part the worſt of all, moſt apt to uſe the baſeſt arts, and to flatter the humours, and foment the vices, that are moſt prevalent in weak and vicious princes. Germanicus, Corbulo, Valerius Aſiaticus, Thraſeas, Soranus, Helvidius Priſcus, Julius Agricola, and other excellent men, lived in the times of Tiberius, Caligula, Claudius, and Nero; but the power was put into the hands of Sejanus, Macro, Tigellinus, and other villains like to them: and I wiſh there were not too many modern examples to ſhew, that weak and vicious princes will never chuſe ſuch as ſhall preſerve nations from the miſchiefs that would enſue upon their own incapacity or malice; but that they muſt be impoſed upon them by ſome other power, or nations be ruined for want of them. This impoſition muſt be by law, or by force. But as laws are made to keep things in good order without the neceſſity of having recourſe to force, it would be a dangerous extravagance to arm that prince with force, which probably in a ſhort time muſt be oppoſed by force; and thoſe who have been guilty of this error, as the kingdoms of the eaſt, and the antient Roman empire, where no proviſion was made by law againſt ill-governing princes, have found no other remedy than to kill them, when by extreme ſufferings they were driven beyond patience; and this fell out ſo often, that few of their princes were obſerved to die by a common death. But ſince the empire was tranſmitted to Germany, and the emperors reſtrained by laws, that nation has never been brought

brought to the odious extremities of ſuffering all manner of indigni- Sect. 13.
ties, or revenging them upon the heads of princes. And if the pope had not diſturbed them upon the account of religion, nor driven their princes to diſturb others, they might have paſſed many ages without any civil diſſenſion, and all their emperors might have lived happily, and died peaceably, as moſt of them have done.

This might be ſufficient to my purpoſe: for, if all princes without diſtinction, whether good or bad, wiſe or fooliſh, young or old, ſober or mad, cannot be entruſted with an unlimited power; and if the power they have, ought to be limited by law, that nations may not with danger to themſelves, as well as to the prince, have recourſe to the laſt remedy; this law muſt be given to all, and the good can be no otherwiſe diſtinguiſhed from the bad, and the wiſe from the fooliſh, than by the obſervation or violation of it. But I may juſtly go a ſtep farther, and affirm, that this law, which, by reſtraining the luſts of the vicious and fooliſh, frequently preſerves them from the deſtruction they would bring upon themſelves or people, and ſometimes upon both, is an aſſiſtance and direction to the wiſeſt and beſt; ſo that they alſo, as well as the nations under them, are gainers by it. This will appear ſtrange only to thoſe who know not " * how difficult and inſupportable the government of great nations is," and how unable the beſt man is to bear it. And, if it ſurpaſs the ſtrength of the beſt, it may eaſily be determined how ordinary men will behave themſelves under it, or what uſe the worſt will make of it. I know there have been wiſe and good kings; but they had not an abſolute power, nor would have accepted it, tho' it had been offered: much leſs can I believe, that any of them would have tranſmitted ſuch a power to their poſterity, when none of them could know any more than Solomon, whether his ſon would be a wiſe man, or a fool. But if the beſt might have deſired, and had been able to bear it (tho' Moſes by his own confeſſion was not) that could be no reaſon why it ſhould be given to the worſt and weakeſt, or thoſe who probably will be ſo. Since the aſſurance, that it will not be abuſed during the life of one man, is nothing to the conſtitution of a ſtate which aims at perpetuity. And no man knowing what men will be, eſpecially if they come to the power by ſucceſſion, which may properly enough be called by chance, it is reaſonably to be feared they will be bad, and conſequently neceſſary ſo to limit their power, that if they prove to be ſo, the commonwealth may not be deſtroyed, which they were inſtituted to preſerve. The law provides for this in leaving to the king a full and ample power of doing as much good as his heart can wiſh, and in reſtraining his power ſo, that if he ſhould depart from the duty of his office, the nation may not periſh. This is a help to thoſe who are wiſe and good, by directing them what they are to do, more certainly than any one man's perſonal judgment can do; and no prejudice at all, ſince no ſuch man did ever complain he was not ſuffered to do the evil, which he would abhor, if it were in his power; and is a moſt neceſſary curb to the fury of bad princes, preventing them from bringing de-

* Quam grave & intolerandum ſit cuncta regendi onus. Tacit.

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ſtruction upon the people. Men are ſo ſubject to vices and paſſions, that they ſtand in need of ſome reſtraint in every condition; but moſt eſpecially when they are in power. The rage of a private man may be pernicious to one or a few of his neighbours; but the fury of an unlimited prince would drive whole nations into ruin: and thoſe very men, who have lived modeſtly when they had little power, have often proved the moſt ſavage of all monſters, when they thought nothing able to reſiſt their rage. It is ſaid of Caligula, that no man ever knew "* a better ſervant, nor a worſe maſter." The want of reſtraint made him a beaſt, who might have continued to be a man. And tho' I cannot ſay, that our law neceſſarily admits the next in blood to the ſucceſſion (for the contrary is proved); yet the facility of our anceſtors, in receiving children, women, or ſuch men, as were not more able than themſelves to bear the weight of a crown, convinces me fully, that they had ſo framed our laws, that even children, women, or ill men, might either perform as much as was neceſſarily required of them, or be brought to reaſon, if they tranſgreſſed, and arrogated to themſelves more than was allowed. For it is not to be imagined, that a company of men ſhould ſo far degenerate from their own nature, which is reaſon, to give up themſelves, and their poſterity, with all their concernments in the world, to depend upon the will of a child, a woman, an ill man, or a fool.

If therefore laws are neceſſary to popular ſtates, they are no leſs to monarchies; or rather, that is not a ſtate or government, which has them not: and it is no leſs impoſſible for any to ſubſiſt without them, than for the body of a man to be, and perform its functions, without nerves or bones. And if any people had ever been ſo fooliſh to eſtabliſh that which they called a government, without laws to ſupport and regulate it, the impoſſibility of ſubſiſting would evidence the madneſs of the conſtitution, and ought to deter all others from following their example.

It is no leſs incredible, that thoſe nations which rejected kings, did put themſelves into the power of one man, to preſcribe to them ſuch laws as he pleaſed. But the inſtances alledged by our author are evidently falſe. The Athenians were not without laws when they had kings: Ægeus was ſubject to the laws, and did nothing of importance without the conſent of the people; and Theſeus, not being able to pleaſe them, died a baniſhed man: Draco and Solon did not make, but propoſe laws, and they were of no force till they were eſtabliſhed by the authority of the people. The Spartans dealt in the ſame manner with Lycurgus; he invented their laws, but the people made them: and, when the aſſembly of all the citizens had approved and ſworn to obſerve them till his return from Crete, he reſolved rather to die in a voluntary baniſhment, than by his return to abſolve them from the oath they had taken. The Romans alſo had laws during the government of their kings; but not finding in them that perfection they deſired, the decemviri were choſen to frame others, which yet were of no value till they were paſſed by the people in

Plut. vit. Solon

* Nec meliorem ſervum, nec deteriorem dominum. Tac. Ann. l. 6. c. 20.

in the * " comitia centuriata ;" and being ſo approved, they were eſta- SECT. 14.
bliſhed. But this ſanction, to which every man, whether magiſtrate or private citizen, was ſubject, did no way bind the whole body of the people, who ſtill retained in themſelves the power of changing both the matter and the form of their government, as appears by their inſtituting and abrogating kings, conſuls, dictators, tribunes, with conſular power, and decemviri, when they thought good for the commonwealth. And if they had this power, I leave our author to ſhew, why the like is not in other nations.

SECT. XIV.

Laws are not made by kings, not becauſe they are buſied in greater matters than doing juſtice, but becauſe nations will be governed by rule, and not arbitrarily.

OUR author purſuing the miſtakes to which he ſeems perpetually condemned, ſays, that " when kings were either buſied in war, " or diſtracted with public cares, ſo that every private man could not " have acceſs unto their perſons, to learn their wills and pleaſures, " then of neceſſity were laws invented, that ſo every particular ſubject " might find his prince s pleaſure." I have often heard, that governments were eſtabliſhed for the obtaining of juſtice; and if that be true, it is hard to imagine what buſineſs a ſupreme magiſtrate can have to divert him from accompliſhing the principal end of his inſtitution. And it is as commonly ſaid, that this diſtribution of juſtice to a people, is a work ſurpaſſing the ſtrength of any one man. Jethro ſeems to Exod. xviii. have been a wiſe man, and it is probable he thought Moſes to be ſo alſo; but he found the work of judging the people to be too heavy for him, and therefore adviſed him to leave the judgment of cauſes to others, who ſhould be choſen for that purpoſe; which advice Moſes accepted, and God approved. The governing power was as inſupportable to him as the judicial. He deſired rather to die than to bear ſo great a burden; and God, neither accuſing him of ſloth or impatience, gave him ſeventy aſſiſtants. But if we may believe our author, the powers judicial and legiſlative, that of judging, as well as that of governing, are not too much for any man, woman, or child, whatſoever: and that he ſtands in no need, either of God's ſtatutes to direct him, or man's counſel to aſſiſt him, unleſs it be when he is otherwiſe employed; and his will alone is ſufficient for all. But what if he be not buſied in greater matters, or diſtracted with public cares? Is every prince capable of this work? Tho' Moſes had not found it too great for him, or it ſhould be granted, that a man of excellent natural endowments, great wiſdom, learning, experience, induſtry, and integrity, might perform it, is it certain, that all thoſe who happen to be

* Ingenti hominum expectatione propoſitis decem tabulis populum ad concionem convocârunt; & quod bonum, fauſtum felixque ſit republicæ, ipſis, liberiſque eorum eſſet, ire & legere leges propoſitas juſſere. T. Liv. l. iii. c. 34.

born

born in reigning families are ſo? If Moſes had the law of God before his eyes, and could repair to God himſelf for the application or explanation of it; have all princes the ſame aſſiſtance? Do they all ſpeak with God face to face, or can they do what he did, without the aſſiſtance he had? If all kings of mature years are of that perfection, are we aſſured, that none ſhall die before his heir arrive to the ſame? Or ſhall he have the ſame ripeneſs of judgment in his infancy? If a child come to a crown, does that immediately infuſe the moſt admirable endowments and graces? Have we any promiſe from heaven, that women ſhall enjoy the ſame prerogatives in thoſe countries where they are made capable of the ſucceſſion? Or does that law which renders them capable, defend them, not only againſt the frailty of their own nature, but confer the moſt ſublime virtues upon them? But who knows not, that no families do more frequently produce weak or ill men, than the greateſt? and that which is worſe, their greatneſs is a ſnare to them; ſo that they who in a low condition might have paſſed unregarded, being advanced to the higheſt, have often appeared to be, or became the worſt of all beaſts; and they who advance them are like to them: for if the power be in the multitude, as our author is forced to confeſs (otherwiſe the Athenians and Romans could not have given all, as he ſays, nor a part, as I ſay, to Draco, Solon, or the decemviri) they muſt be beaſts alſo, who ſhould have given away their right and liberty, in hopes of receiving juſtice from ſuch as probably will neither underſtand nor regard it, or protection from thoſe who will not be able to help themſelves, and expect ſuch virtue, wiſdom, and integrity, ſhould be, and for ever remain, in the family they ſet up, as was never known to continue in any. If the power be not conferred upon them, they have it not; and if they have it not, their want of leiſure to do juſtice, cannot have been the cauſe for which laws are made; and they cannot be the ſignification of their will, but are that to which the prince owes obedience, as well as the meaneſt ſubject. This is that which Bracton calls, "eſſe ſub "lege," and ſays, that "rex in regno ſuperiores habet Deum & legem." Forteſcue ſays, the kings of England cannot change the laws: and indeed, they are ſo far from having any ſuch power, that the judges ſwear to have no regard to the king's letters or commands, but if they receive any, to proceed according to law, as if they had not been. And the breach of this oath does not only bring a blemiſh upon their reputation, but expoſes them to capital puniſhments, as many of them have found. It is not therefore the king that makes the law, but the law that makes the king. It gives the rule for ſucceſſion, making kingdoms ſometimes hereditary, and ſometimes elective, and (more often than either ſimply) hereditary under condition. In ſome places males only are capable of inheriting, in others females are admitted. Where the monarchy is regular, as in Germany, England, &c. the kings can neither make nor change laws: they are under the law, and the law is not under them; their letters or commands are not to be regarded: in the adminiſtration of juſtice, the queſtion is not what pleaſes them, but what the law declares to be right, which muſt have its courſe, whether the king be buſy, or at leiſure, whether he will or not. The king who never dies, is al-

De laud. leg. Angl. c. 9.

ways

ways preſent in the ſupreme courts, and neither knows nor regards the pleaſure of the man, that wears the crown. But leſt he by his riches and power might have ſome influence upon judicial proceedings, the "great charter," that recapitulates and acknowledges our antient inherent liberties, obliges him to ſwear, that he will neither ſell, delay, nor deny juſtice to any man, according to the laws of the land: which were ridiculous and abſurd, if thoſe laws were only the ſignification of his pleaſure, or any way depended upon his will. This charter having been confirmed by more than thirty parliaments, all ſucceeding kings are under the obligation of the ſame oath, or muſt renounce the benefit they receive from our laws; which if they do, they will be found to be equal to every one of us. SECT. 14.

Our author, according to his cuſtom, having laid down a falſe propoſition, goes about to juſtify it by falſe examples, as thoſe of Draco, Solon, the decemviri, and Moſes, of whom no one had the power he attributes to them; and it were nothing to us, if they had. The Athenians and Romans, as was ſaid before, were ſo far from reſigning the abſolute power without appeal to themſelves, that nothing done by their magiſtrates was of any force, till it was enacted by the people. And the power given to the decemviri, "ſine provocatione," was only in private caſes, there being no ſuperior magiſtrate, then in being, to whom appeals could be made. They were veſted with the ſame power the kings and dictators enjoyed, from whom there lay no appeal, but to the people, and always to them; as appears by the caſe of Horatius, in the time of Tullus Hoſtilius; that of Marcus Fabius, when Papirius Curſor was dictator; and of Nenius the tribune, during that of Q. Fabius Maximus; all which I have cited already, and refer to them. There was therefore a reſervation of the ſupreme power in the people, notwithſtanding the creation of magiſtrates without appeal; and as it was quietly exerciſed in making ſtrangers, or whom they pleaſed, kings, reſtraining the power of dictators to ſix months, and that of the decemviri to two years; when the laſt did, contrary to law, endeavour, by force, to continue their power, the people did, by force, deſtroy it and them. T. Liv. l. i. c. 8.

The caſe of Moſes is yet more clear: he was the moſt humble and gentle of all men: he never raiſed his heart above his brethren, and commanded kings to live in the ſame modeſty: he never deſired the people ſhould depend upon his will: in giving laws to them he fulfilled the will of God, not his own; and thoſe laws were not the ſignification of his will, but of the will of God. They were the production of God's wiſdom and goodneſs, not the invention of man; given to purify the people, not to advance the glory of their leader. He was not proud and inſolent, nor pleaſed with that oſtentation of pomp, to which fools give the name of majeſty; and whoever ſo far exalts the power of a man, to make nations depend upon his pleaſure, does not only lay a burden upon him, which neither Moſes, nor any other, could ever bear, and every wiſe man will always abhor; but, with an impious fury, endeavours to ſet up a government contrary to the laws of God, preſumes to accuſe him of want of wiſdom, or goodneſs to his own people, and to correct his errors; which is a work fit to be undertaken by ſuch as our author.

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From hence, as upon a ſolid foundation, he proceeds, and making uſe of king James's words, infers, that kings are above the laws, becauſe he ſo teaches us. But he might have remembred, that, having affirmed the people could not judge of the diſputes that might happen between them and kings, becauſe they muſt not be judges in their own caſe, it is abſurd to make a king judge of a caſe ſo nearly concerning himſelf, in the deciſion of which his own paſſions and intereſts may probably lead him into errors. And if it be pretended that I do the ſame, in giving the judgment of thoſe matters to the people, the caſe is utterly different, both in the nature and conſequences. The king's judgment is merely for himſelf; and if that were to take place, all the paſſions and vices, that have moſt power upon men, would concur to corrupt it. He that is ſet up for the public good, can have no conteſt with the whole people, whoſe good he is to procure, unleſs he deflect from the end of his inſtitution, and ſet up an intereſt of his own in oppoſition to it. This is in its nature the higheſt of all delinquencies; and if ſuch a one may be judge of his own crimes, he is not only ſure to avoid puniſhment, but to obtain all that he ſought by them; and the worſe he is, the more violent will his deſires be, to get all the power into his hands, that he may gratify his luſts, and execute his pernicious deſigns. On the other ſide, in a popular aſſembly, no man judges for himſelf, otherwiſe, than as his good is comprehended in that of the public: nothing hurts him, but what is prejudicial to the commonwealth: ſuch amongſt them as may have received private injuries, are ſo far only conſidered by others, as their ſufferings may have influence upon the public: if they be few, and the matters not great, others will not ſuffer their quiet to be diſturbed by them; if they are many and grievous, the tyranny thereby appears to be ſo cruel, that the nation cannot ſubſiſt, unleſs it be corrected or ſuppreſſed. Corruption of judgment proceeds from private paſſions, which in theſe caſes never govern: and tho' a zeal for the public good may poſſibly be miſguided, yet till it be ſo, it can never be capable of exceſs. The laſt Tarquin, and his lewd ſon, exerciſed their fury and luſt in the murders of the beſt men in Rome, and the rape of Lucretia. Appius Claudius was filled with the like madneſs. Caligula and Nero were ſo well eſtabliſhed in the power of committing the worſt of villainies, that we do not hear of any man that offered to defend himſelf, or woman that preſumed to refuſe them. If they had been judges in theſe caſes, the utmoſt of all villainies and miſchiefs had been eſtabliſhed by law: but as long as the judgment of theſe matters was in the people, no private or corrupt paſſion could take place. Lucius Brutus, Valerius, Horatius, and Virginius, with the people that followed them, did not by the expulſion of the kings, or the ſuppreſſion of the decemviri, aſſume to themſelves a power of committing rapes and murders, nor any advantages beyond what their equals might think they deſerved by their virtues, and ſervices to the commonwealth; nor had they more credit than others for any other reaſon, than that they ſhewed themſelves moſt forward in procuring the public good, and by their valour and conduct beſt able to promote it.

What-

Whatſoever happened after the overthrow of their liberty, be- SECT. 14.
longs not to my ſubject, for there was nothing of popularity in the judgments that were made. One tyrant deſtroyed another; the ſame paſſions and vices for the moſt part reigned in both: the laſt was often as bad as his predeceſſor whom he had overthrown; and one was ſometimes approved by the people for no other reaſon, than that it was thought impoſſible for him to be worſe than he who was in poſſeſſion of the power. But if one inſtance can be of force amongſt an infinite number of various accidents, the words of Valerius Aſiaticus, who, by wiſhing he had been the man that had killed Caligula, did, in a moment, pacify the fury of the ſoldiers, who were looking for thoſe that had done it, ſhew, that as long as men retain any thing of that reaſon which is truly their nature, they never fail of judging rightly of virtue and vice; whereas violent and ill princes have always done the contrary, and even the beſt do often deflect from the rules of juſtice, as appears not only by the examples of Edward the Firſt and Third, who were brought to confeſs it, but even thoſe of David and Solomon.

Moreover, to ſhew that the deciſion of theſe controverſies cannot belong to any king, but to the people, we are only to conſider, that as kings, and all other magiſtrates, whether ſupreme or ſubordinate, are conſtituted only for the good of the people, the people only can be fit to judge whether the end be accompliſhed. A phyſician does not exerciſe his art for himſelf, but for his patients; and when I am, or think I ſhall be ſick, I ſend for him of whom I have the beſt opinion, that he may help me to recover, or preſerve my health; but I lay him aſide if I find him to be negligent, ignorant, or unfaithful; and it would be ridiculous for him to ſay, I make myſelf judge in my own caſe, for I only, or ſuch as I ſhall conſult, am fit to be the judge of it. He may be treacherous, and through corruption or malice endeavour to poiſon me, or have other defects, that render him unfit to be truſted: but I cannot, by any corrupt paſſion, be led wilfully to do him injuſtice, and if I miſtake, it is only to my own hurt. The like may be ſaid of lawyers, ſtewards, pilots, and generally of all that do not act for themſelves, but for thoſe who employ them. And if a company going to the Indies ſhould find, that their pilot was mad, drunk, or treacherous, they whoſe lives and goods are concerned, can only be fit to judge, whether he ought to be truſted or not, ſince he cannot have a right to deſtroy thoſe he was choſen to preſerve; and they cannot be thought to judge perverſly, becauſe they have nothing to lead them but an opinion of truth, and cannot err but to their own prejudice. In the like manner, not only Solon and Draco, but Romulus, Numa, Hoſtilius, the conſuls, dictators, and decemviri, were not diſtinguiſhed from others, that it might be well with them, "ſed ut "bonum, felix, fauſtumque ſit populo Romano," but that the proſperity and happineſs of the people might be procured; which being the thing always intended, it were abſurd to refer the judgment of the performance to him who is ſuſpected of a deſign to overthrow it, and whoſe paſſions, intereſts, and vices, if he has any, lead him that way. If king James ſaid any thing contrary to this, he might be anſwered with ſome of his own words: "I was," ſays he, "ſworn to "maintain Speech in ſtar-chamber 1616.

CHAP. III.

" maintain the laws of the land, and therefore had been perjured if I had " broken them." It may alſo be preſumed, he had not forgotten what his maſter Buchanan had taught in the books he wrote chiefly for his inſtruction, that the violation of the laws of Scotland could not have been ſo fatal to moſt of his predeceſſors, kings of that country (nor as he himſelf had made them to his mother) if kings as kings were above them.

Hiſt. Scot.

De jure reg. apud Scot.

SECT. XV.

A general preſumption, that kings will govern well, is not a ſufficient ſecurity to the people.

" BUT," ſays our author, " yet will they rule their ſubjects by the " law; and a king, governing in a ſettled kingdom, leaves to be " a king, and degenerates into a tyrant, ſo ſoon as he ceaſes to rule " according unto his laws: yet where he ſees them rigorous or doubt- " ful, he may mitigate or interpret." This is therefore an effect of their goodneſs; they are above laws, but will rule by law, we have Filmer's word for it. But I know not how nations can be aſſured their princes will always be ſo good: goodneſs is always accompanied with wiſdom, and I do not find thoſe admirable qualities to be generally inherent or entailed upon ſupreme magiſtrates. They do not ſeem to be all alike, and we have not hitherto found them all to live in the ſame ſpirit and principle. I can ſee no reſemblance between Moſes and Caligula, Joſhua and Claudius, Gideon and Nero, Samſon and Vitellius, Samuel and Otho, David and Domitian; nor indeed between the beſt of theſe and their own children. If the ſons of Moſes and Joſhua had been like to them in wiſdom, valour, and integrity, it is probable they had been choſen to ſucceed them; if they were not, the like is leſs to be preſumed of others. No man has yet obſerved the moderation of Gideon to have been in Abimelech; the piety of Eli in Hophni and Phinehas; the purity and integrity of Samuel in Joel and Abiah, nor the wiſdom of Solomon in Rehoboam. And if there was ſo vaſt a difference between them, and their children, who doubtleſs were inſtructed by thoſe excellent men in the ways of wiſdom and juſtice, as well by precept as example, were it not madneſs to be confident, that they who have neither precept nor good example to guide them, but, on the contrary, are educated in an utter ignorance or abhorrence of all virtue, will always be juſt and good; or to put the whole power into the hands of every man, woman, or child, that ſhall be born in governing families, upon a ſuppoſition, that a thing will happen, which never did; or that the weakeſt and worſt will perform all that can be hoped, and was ſeldom accompliſhed by the wiſeſt and beſt, expoſing whole nations to be deſtroyed without remedy, if they do it not? And if this be madneſs in all extremity, it is to be preſumed, that nations never intended any ſuch thing, unleſs our author prove, that all nations have been mad from the beginning, and muſt always

continue to be ſo. To cure this, he ſays, " they degenerate into tyrants;" SECT. 15.
and if he meant as he ſpeaks, it would be enough. For a king cannot degenerate into a tyrant by departing from that law, which is only the product of his own will. But if he do degenerate, it muſt be by departing from that, which does not depend upon his will, and is a rule preſcribed by a power that is above him. This indeed is the doctrine of Bracton, who, having ſaid, that the power of the king is the power of the law, becauſe the law makes him king, adds, " * that " if he do injuſtice, he ceaſes to be king, degenerates into a tyrant, " and becomes the vicegerent of the devil." But I hope this muſt be underſtood with temperament, and a due conſideration of human frailty, ſo as to mean only thoſe injuries that are extreme; for otherwiſe he would terribly ſhake all the crowns of the world.

But leſt our author ſhould be thought once in his life to have dealt ſincerely, and ſpoken truth, the next lines ſhew the fraud of his laſt aſſertion, by giving to the prince a power of " mitigating or interpret- " ing the laws, that he ſees to be rigorous or doubtful." But as he cannot degenerate into a tyrant by departing from the law, which proceeds from his own will, ſo he cannot mitigate or interpret that which proceeds from a ſuperior power, unleſs the right of mitigating or interpreting be conferred upon him by the ſame. For as all wiſe men confeſs, that " † none can abrogate, but thoſe who may inſtitute," and that all mitigation and interpretation varying from the true ſenſe is an alteration, that alteration is an abrogation; for ‡ whatſoever is changed, is diſſolved: and therefore the power of mitigating is inſeparable from that of inſtituting. This is ſufficiently evidenced by Henry the Eighth's anſwer to the ſpeech made to him by the ſpeaker of the houſe of commons 1545, in which he, tho' one of the moſt violent princes we ever had, confeſſes the parliament to be the law-makers, and that an obligation lay upon him rightly to uſe the power with which he was entruſted. The right therefore of altering being inſeparable from that of making laws, the one being in the parliament, the other muſt be ſo alſo. Forteſcue ſays plainly, the king cannot change any law: magna charta caſts all upon || the laws of the land, and cuſtoms of England: but to ſay, that the king can by his will make that to be a cuſtom, or an antient law, which is not, or that not to be ſo, which is, is moſt abſurd. He muſt therefore take the laws and cuſtoms as he finds them, and can neither detract from, nor add any thing to them. The ways are preſcribed as well as the end. Judgments are given by equals, " per pares." The judges, who may be aſſiſting to thoſe, are ſworn to proceed according to law, and not to regard the king's letters or commands. The doubtful caſes are reſerved, and to be referred to the parliament, as in the ſtatute of 35 Edw. III. concerning treaſons, but never to the king. The law intending that theſe parliaments ſhould be annual, and leaving to the king a power of calling them more often,

* Quia ſi faciat injuriam, deſinit eſſe rex, & degenerat in tyrannum, & fit vicarius diaboli. Bract.

† Cujus eſt inſtituere, ejus eſt abrogare.

‡ Quicquid mutatur, diſſolvitur: interit ergo.

|| Leges terræ, & conſuetudines Angliæ.

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if occaſion require, takes away all pretence of a neceſſity, that there ſhould be any other power to interpret or mitigate laws. For it is not to be imagined, that there ſhould be ſuch a peſtilent evil in any antient law, cuſtom, or later act of parliament, which, being on the ſudden diſcovered, may not without any great prejudice continue for forty days, till a parliament may be called; whereas the force and eſſence of all laws would be ſubverted, if, under colour of mitigating and interpreting, the power of altering were allowed to kings, who often want the inclination, and for the moſt part the capacity, of doing it rightly. It is not therefore upon the uncertain will or underſtanding of a prince, that the ſafety of a nation ought to depend. He is ſometimes a child, and ſometimes overburdened with years. Some are weak, negligent, ſlothful, fooliſh, or vicious: others, who may have ſomething of rectitude in their intentions, and naturally are not uncapable of doing well, are drawn out of the right way by the ſubtilty of ill men, who gain credit with them. That rule muſt always be uncertain, and ſubject to be diſtorted, which depends upon the fancy of ſuch a man. He always fluctuates, and every paſſion that ariſes in his mind, or is infuſed by others, diſorders him. The good of a people ought to be eſtabliſhed upon a more ſolid foundation. For this reaſon, the law is eſtabliſhed, which no paſſion can diſturb. It is void of deſire and fear, luſt and anger. It is "mens ſine affectu," written reaſon, retaining ſome meaſure of the divine perfection. It does not injoin that which pleaſes a weak, frail man; but, without any regard to perſons, commands that which is good, and puniſhes evil in all, whether rich or poor, high or low. It is deaf, inexorable, inflexible.

By this means, every man knows when he is ſafe, or in danger, becauſe he knows, whether he has done good or evil. But if all depended upon the will of a man, the worſt would be often the moſt ſafe, and the beſt in the greateſt hazard; ſlaves would be often advanced, the good and the brave ſcorned and neglected. The moſt generous nations have above all things ſought to avoid this evil: and the virtue, wiſdom, and generoſity of each, may be diſcerned by the right fixing of the rule, that muſt be the guide of every man's life, and ſo conſtituting their magiſtracy, that it may be duly obſerved. Such as have attained to this perfection, have always flouriſhed in virtue and happineſs: they are, as Ariſtotle ſays, governed by God, rather than by men, whilſt thoſe who ſubjected themſelves to the will of a man, were governed by a beaſt.

This being ſo, our author's next clauſe, that "tho' a king do frame "all his actions to be according unto law, yet he is not bound there-"unto, but as his good will, and for good example, or ſo far forth "as the general law for the ſafety of the commonwealth, doth na-"turally bind him," is wholly impertinent. For if the king, who governs not according to law, degenerates into a tyrant, he is obliged to frame his actions according to law, or not to be a king; for a tyrant is none, but as contrary to him, as the worſt of men is to the beſt. But if theſe obligations were untied, we may eaſily gueſs, what ſecurity our author's word can be to us, that the king of his own good will, and for a good example, will frame his actions according to the laws;

when experience inſtructs us, that notwithſtanding the ſtricteſt laws, and moſt exquiſite conſtitutions, that men of the beſt abilities in the world could ever invent to reſtrain the irregular appetites of thoſe in power, with the dreadful examples of vengeance taken againſt ſuch as would not be reſtrained, they have frequently broken out; and the moſt powerful, have for the moſt part, no otherwiſe diſtinguiſhed themſelves from the reſt of men, than by the enormity of their vices, and being the moſt forward in leading others to all manner of crimes by their example. SECT. 16.

SECT. XVI.

The obſervation of the laws of nature is abſurdly expected from tyrants, who ſet themſelves up againſt all laws: and he that ſubjects kings to no other law than what is common to tyrants, deſtroys their being.

OUR author's laſt clauſe, acknowledging kings to be bound by a general law to provide for the ſafety of the people, would be ſufficient for my purpoſe, if it were ſincere; for municipal laws do only ſhew how that ſhould be performed: and if the king, by departing from that rule, degenerates, as he ſays, into a tyrant, it is eaſily determined what ought then to be done by the people. But his whole book being a heap of contradictions and frauds, we can rely upon nothing that he ſays: and his following words, which under the ſame law comprehend both kings and tyrants, ſhew that he intends kings ſhould be no otherwiſe obliged than tyrants, which is, not at all. "By this means," ſays he, "are all kings, even tyrants and "conquerors, bound to preſerve the lands, goods, liberties, and lives of "all their ſubjects, not by any municipal law of the land, ſo much as by "the natural law of a father, which obligeth them to ratify the acts of "their forefathers and predeceſſors in things neceſſary for the public good "of their ſubjects." If he be therefore in the right, tyrants and conquerors are kings and fathers. The words that have been always thought to comprehend the moſt irreconcileable contrariety, the one expreſſing the moſt tender love and care, evidently teſtified by the greateſt obligations conferred upon thoſe who are under it; the other the utmoſt of all injuries that can be offered to men; ſignify the ſame thing; there is no difference between a magiſtrate who is what he is by law, and a public enemy, who by force or fraud ſets himſelf up againſt all law: and what he ſaid before, that kings degenerated into tyrants, ſignifies nothing; for tyrants alſo are kings.

His next words are no leſs incomprehenſible; for neither king nor tyrant can be obliged to preſerve the lands, goods, and liberties of their ſubjects, if they have none. But as liberty conſiſts only in being ſubject to no man's will, and nothing denotes a ſlave but a dependence upon the will of another; if there be no other law in a kingdom than the will of a prince; there is no ſuch thing as liberty. Pro-

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perty is alſo an appendage to liberty; and it is as impoſſible for a man to have a right to lands or goods, if he has no liberty, and enjoys his life only at the pleaſure of another, as it is to enjoy either, when he is deprived of them. He therefore who ſays kings and tyrants are bound to preſerve their ſubjects lands, liberties, goods, and lives, and yet lays for a foundation, that laws are no more than the ſignifications of their pleaſure, ſeeks to delude the world with words which ſignify nothing.

The vanity of theſe whimſies will farther appear, if it be conſidered, that as kings are kings by law, and tyrants are tyrants by overthrowing the law; they are moſt abſurdly joined together; and it is not more ridiculous to ſet him above the law, who is what he is by the law, than to expect the obſervation of the laws that injoin the preſervation of the lands, liberties, goods, and lives, of the people, from one who by fraud or violence makes himſelf maſter of all, that he may be reſtrained by no law, and is what he is by ſubverting all law.

Beſides, if the ſafety of the people be the ſupreme law, and this ſafety extend to, and conſiſt in, the preſervation of their liberties, goods, lands, and lives, that law muſt neceſſarily be the root and beginning, as well as the end and limit, of all magiſtratical power, and all laws muſt be ſubſervient and ſubordinate to it. The queſtion will not then be what pleaſes the king, but what is good for the people; not what conduces to his profit or glory, but what beſt ſecures the liberties he is bound to preſerve: he does not therefore reign for himſelf, but for the people; he is not the maſter, but the ſervant, of the commonwealth; and the utmoſt extent of his prerogative is to be able to do more good than any private man. If this be his work and duty, it is eaſily ſeen whether he is to judge of his own performance, or they by whom, and for whom, he reigns; and whether, in order to this, he be to give laws, or to receive them. It is ordinarily ſaid in France, "Il faut que chacun ſoi ſervi à ſa mode;" Every man's buſineſs muſt be done according to his own mind: and if this be true in particular perſons, it is more plainly ſo in whole nations. Many eyes ſee more than one: the collected wiſdom of a people much ſurpaſſes that of a ſingle perſon; and tho' he ſhould truly ſeek that which is beſt, it is not probable he would ſo eaſily find it, as the body of a nation, or the principal men choſen to repreſent the whole. This may be ſaid with juſtice of the beſt and wiſeſt princes that ever were; but another language is to be uſed, when we ſpeak of thoſe who may ſucceed, and who very often through the defects of age, perſon, or ſex, are neither fit to judge of other mens affairs, nor of their own; and are ſo far from being capable of the higheſt concernments relating to the ſafety of whole nations, that the moſt trivial cannot reaſonably be referred to them.

There are few men (except ſuch as are like Filmer, who, by bidding defiance to the laws of God and man, ſeems to declare war againſt both) whom I would not truſt to determine whether a people that can never fall into nonage or dotage, and can never fail of having men of wiſdom and virtue amongſt them, be not more fit to judge in their own perſons, or by repreſentatives, what conduces to their

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own good, than one who at a venture may be born in a certain family, and who, beſides his own infirmities, paſſions, vices, or intereſts, is continually ſurrounded by ſuch as endeavour to divert him from the ways of truth and juſtice. And if no reaſonable man dare prefer the latter before the former, we muſt rely upon the laws made by our forefathers, and interpreted by the nation, and not upon the will of a man. SECT. 16.

It is in vain to ſay, that a wiſe and good council may ſupply the defects, or correct the vices, of a young, fooliſh, or ill-diſpoſed king. For Filmer denies, that a king, whatever he be, without exception (for he attributes profound wiſdom to all), is obliged to follow the advice of his council; and even he would hardly have had the impudence to ſay, that good counſel, given to a fooliſh or wicked prince, were of any value, unleſs he were obliged to follow it. This council muſt be choſen by him, or impoſed upon him: if it be impoſed upon him, it muſt be by a power that is above him, which he ſays cannot be. If choſen by him who is weak, fooliſh, or wicked, it can never be good; becauſe ſuch virtue and wiſdom is required to diſcern and chuſe a few good and wiſe men, from a multitude of fooliſh and bad, as he has not. And it will generally fall out, that he will take for his counſellors, rather thoſe he believes to be addicted to his perſon or intereſts, than ſuch as are fitly qualified to perform the duty of their places. But if he ſhould, by chance, or contrary to his intentions, make choice of ſome good and wiſe men, the matter would not be much mended; for they will certainly differ in opinion from the worſt. And tho' the prince ſhould intend well, of which there is no aſſurance; nor any reaſon to put ſo great a power into his hands, if there be none; it is almoſt impoſſible for him to avoid the ſnares that will be laid to ſeduce him. I know not how to put a better face upon this matter; for if I examine rather what is probable than poſſible, fooliſh or ill princes will never chuſe ſuch as are wiſe and good; but favouring thoſe who are moſt like to themſelves, will prefer ſuch as ſecond their vices, humours, and perſonal intereſts, and, by ſo doing, will rather fortify and rivet the evils that are brought upon the nation through their defects, than cure them. This was evident in Rehoboam: he had good counſel, but he would not hearken to it. We know too many of the ſame ſort; and tho' it were not impoſſible (as Machiavelli ſays it is) for a weak prince to receive any benefit from a good council, we may certainly conclude, that a people can never expect any good from a council choſen by one who is weak or vicious.

If a council be impoſed upon him, and he be obliged to follow their advice, it muſt be impoſed by a power that is above him: his will therefore is not a law; but muſt be regulated by the law: the monarchy is not above the law; and if we will believe our author, it is no monarchy, becauſe the monarch has not his will, and perhaps he ſays true. For if that be an ariſtocracy, where thoſe that are, or are reputed to be, the beſt, do govern, then that is certainly a mixed ſtate, in which the will of one man does not prevail. But if princes are not obliged by the law, all that is founded upon that ſuppoſition falls to the ground: they will always follow their own hu-

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mours, or the ſuggeſtions of thoſe who ſecond them. Tiberius hearkned to none but Chaldeans, or the miniſters of his impurities and cruelties: Claudius was governed by ſlaves, and the profligate ſtrumpets his wives. There were many wiſe and good men in the ſenate during the reigns of Caligula, Nero, and Domitian; but inſtead of following their counſel, they endeavoured to deſtroy them all, leſt they ſhould head the people againſt them; and ſuch princes as reſemble them will always follow the like courſes.

If I often repeat theſe hateful names, it is not for want of freſher examples of the ſame nature; but I chuſe ſuch as mankind has univerſally condemned, againſt whom I can have no other cauſe of hatred than what is common to all thoſe who have any love to virtue, and which can have no other relation to the controverſies of later ages, than what may flow from the ſimilitude of their cauſes, rather than ſuch as are too well known to us, and which every man, according to the meaſure of his experience, may call to mind in reading theſe. I may alſo add, that as nothing is to be received as a general maxim, which is not generally true, I need no more to overthrow ſuch as Filmer propoſes, than to prove how frequently they have been found falſe, and what deſperate miſchiefs have been brought upon the world as often as they have been practiſed, and exceſſive powers put into the hands of ſuch as had neither inclination nor ability to make a good uſe of them.

1. But if the ſafety of nations be the end for which governments are inſtituted, ſuch as take upon them to govern, by what title ſoever, are by the law of nature bound to procure it; and in order to this, to preſerve the lives, lands, liberties, and goods, of every one of their ſubjects: and he that, upon any title whatſoever, pretends, aſſumes, or exerciſes a power of diſpoſing of them according to his will, violates the laws of nature in the higheſt degree.

2. If all princes are obliged, by the law of nature, to preſerve the lands, goods, lives, and liberties, of their ſubjects, thoſe ſubjects have, by the law of nature, a right to their liberties, lands, goods, &c. and cannot depend upon the will of any man; for that dependence deſtroys liberty, &c.

3. Ill men will not, and weak men cannot, provide for the ſafety of the people; nay, the work is of ſuch extreme difficulty, that the greateſt and wiſeſt men that have been in the world are not able, by themſelves, to perform it; and the aſſiſtance of counſel is of no uſe, unleſs princes are obliged to follow it. There muſt be therefore a power in every ſtate to reſtrain the ill, and to inſtruct weak princes, by obliging them to follow the counſels given, elſe the ends of government cannot be accompliſhed, nor the rights of nations preſerved.

All this being no more than is ſaid by our author, or neceſſarily to be deduced from his propoſitions, one would think he were become as good a commonwealths-man as Cato; but the waſhed ſwine will return to the mire. He overthrows all by a prepoſterous conjunction of the rights of kings, which are juſt, and by law, with thoſe of tyrants, which are utterly againſt law; and gives the ſacred and gentle name of father to thoſe beaſts, who by their actions declare themſelves enemies not only to all law and juſtice, but to mankind,

that cannot ſubſiſt without them. This requires no other proof, than to examine whether Attila or Tamerlane did well deſerve to be called fathers of the countries they deſtroyed. The firſt of theſe was uſually called the ſcourge of God, and he gloried in the name. The other, being reproved for the deteſtable cruelties he exerciſed, made anſwer, "You ſpeak to me as to a man: I am not a man, but the ſcourge "of God, and plague of mankind." This is certainly ſweet and gentle language, ſavouring much of a fatherly tenderneſs: there is no doubt, that thoſe who uſe it will provide for the ſafety of the nations under them, and the preſervation of the laws of nature is rightly referred to them; and it is very probable, that they who came to burn the countries, and deſtroy the nations, that fell under their power, ſhould make it their buſineſs to preſerve them, and look upon the former governors "as their fathers, whoſe acts they were obliged to confirm," tho' they ſeldom attained to the dominion by any other means, than the ſlaughter of them, and their families.

SECT. 16.

Vit. Tamerl. Hiſt. Thuan.

But if the enmity be not againſt the nation, and the cauſe of the war be only for dominion againſt the ruling perſon or family, as that of Baaſha againſt the houſe of Jeroboam, of Zimri againſt that of Baaſha, of Omri againſt Zimri, and of Jehu againſt Joram, the proſecution of it is a ſtrange way of becoming the ſon of the perſon deſtroyed. And Filmer alone is ſubtil enough to diſcover, that Jehu, by extinguiſhing the houſe of Ahab, drew an obligation upon himſelf, of looking on him as his father, and confirming his acts. If this be true, Moſes was obliged to confirm the acts of the kings of the Amalekites, Moabites, and Amorites, that he deſtroyed; the ſame duty lay upon Joſhua, in relation to the Canaanites: but it is not ſo eaſily decided, to which of them he did owe that deference; for the ſame could not be due to all, and it is hard to believe, that by killing above thirty kings, he ſhould purchaſe to himſelf ſo many fathers; and the like may be ſaid of divers others.

Moreover, there is a ſort of tyrant who has no father, as Agathocles, Dionyſius, Cæſar, and generally all thoſe, who ſubvert the liberties of their own country. And if they ſtood obliged to look upon the former magiſtrates as their predeceſſors, and to confirm their acts, the firſt ſhould have been to give impunity and reward to any that would kill them, it having been a fundamental maxim in thoſe ſtates, "* that any man might kill a tyrant."

This being in all reſpects ridiculous and abſurd, it is evident, that our author, who, by propoſing ſuch a falſe ſecurity to nations for their liberties, endeavours to betray them, is not leſs treacherous to kings, when, under a pretence of defending their rights, he makes them to be the ſame with thoſe of tyrants, who are known to have none (and are tyrants, becauſe they have none); and gives no other hopes to nations of being preſerved by the kings they ſet up for that end, than what upon the ſame account may be expected from tyrants, whom all wiſe men have ever abhorred, and affirmed to have been "pro-"duced † to bring deſtruction upon the world," and whoſe lives have verified the ſentence.

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* Unicuique licere tyrannum occidere. † In generis humani exitium natos.

This is truly to depoſe and aboliſh kings, by aboliſhing that by which, and for which, they are ſo. The greatneſs of their power, riches, ſtate, and the pleaſures that accompany them, cannot but create enemies. Some will envy that which is accounted happineſs; others may diſlike the uſe they make of their power: ſome may be unjuſtly exaſperated by the beſt of their actions, when they find themſelves incommoded by them; others may be too ſevere judges of ſlight miſcarriages. Theſe things may reaſonably temper the joys of thoſe, who delight moſt in the advantages of crowns. But the worſt and moſt dangerous of all their enemies are theſe accurſed ſycophants, who, by making thoſe that ought to be the beſt of men, like to the worſt, deſtroy their being; and by perſuading the world they aim at the ſame things, and are bound to no other rule than is common to all tyrants, give a fair pretence to ill men to ſay, they are all of one kind. And if this ſhould be received for truth, even they who think the miſcarriages of their governors may be eaſily redreſſed, and deſire no more, would be the moſt fierce in procuring the deſtruction of that, which is naught in principle, and cannot be corrected.

SECT. XVII.

Kings cannot be the interpreters of the oaths they take.

OUR author's book is ſo full of abſurdities and contradictions, that it would be a rope of ſand, if a continued ſeries of frauds did not, like a ſtring of poiſons running through the whole, give it ſome conſiſtence with itſelf, and ſhew it to be the work of one and the ſame hand. After having endeavoured to ſubvert the laws of God, nature, and nations, moſt eſpecially our own, by abuſing the Scriptures, falſly alledging the authority of many good writers, and ſeeking to obtrude upon mankind a univerſal law, that would take from every nation the right of conſtituting ſuch governments within themſelves, as ſeem moſt convenient for them, and giving rules for the adminiſtration of ſuch as they had eſtabliſhed, he gives us a full view of his religion and morals, by deſtroying the force of the oath taken by our kings at their coronation. "Others," ſays he, "affirm, that although "laws of themſelves do not bind kings, yet the oaths of kings at their "coronation tie them to keep all the laws of their kingdoms. How "far this is true, let us but examine the oath of the kings of England "at their coronation; the words whereof are theſe: Art thou pleaſed "to cauſe to be adminiſtred in all thy judgments, indifferent and up-"right juſtice, and to uſe diſcretion with mercy and verity? Art thou "pleaſed, that our upright laws and cuſtoms be obſerved? And doſt "thou promiſe, that thoſe ſhall be protected and maintained by thee? "&c." To which the king "anſwers in the affirmative, being firſt "demanded by the archbiſhop of Canterbury, Pleaſeth it you, to "confirm and obſerve the laws and cuſtoms of the antient times, "granted from God by juſt and devout kings unto the Engliſh nation, "by oath unto the ſaid people, eſpecially the laws, liberties, and "cuſtoms granted unto the clergy and laity by the famous king Ed-"ward?"

ward?" From this he infers, That the king "is not to obſerve all laws, SECT. 17.
"but ſuch as are upright, becauſe he finds evil laws mentioned in the
"oath of Richard the 2d, which he ſwears to aboliſh: now what laws
"are upright, and what evil, who ſhall judge but the king? &c. So
"that in effect the king doth ſwear to keep no laws but ſuch as in his
"judgment are upright, &c. And if he did ſtrictly ſwear to obſerve all
"laws, he could not without perjury give his conſent to the repealing or
"abrogating of any ſtatute by act of parliament, &c." And again, "But,
"let it be ſuppoſed for truth, that kings do ſwear to obſerve all laws of
"their kingdoms; yet no man can think it reaſon, that the kings ſhould
"be more bound by their voluntary oaths than common perſons: now if
"a private perſon make a contract, either with oath, or without oath, he
"is no farther bound than the equity and juſtice of the contract ties him;
"for a man may have relief againſt an unreaſonable and unjuſt promiſe,
"if either deceit or error, force or fear, induced him thereunto; or if it
"be hurtful or grievous in the performance, ſince the law in many caſes
"gives the king a prerogative above common perſons." Leſt I ſhould be thought to inſiſt upon ſmall advantages, I will not oblige any man to ſhew where Filmer found this oath, nor obſerve the faults committed in the tranſlation; but, notwithſtanding his falſe repreſentation, I find enough for my purpoſe, and intend to take it in his own words. But firſt I ſhall take leave to remark, that thoſe who, for private intereſts, addict themſelves to the perſonal ſervice of princes, tho' to the ruin of their country, find it impoſſible to perſuade mankind, that kings may govern as they pleaſe, when all men know there are laws to direct and reſtrain them, unleſs they can make men believe they have their power from an univerſal and ſuperior law; or that princes can attempt to diſſolve the obligations laid upon them by the laws, which they ſo ſolemnly ſwear to obſerve, without rendering themſelves deteſtable to God and man, and ſubject to the revenging hands of both, unleſs they can invalidate thoſe oaths. Mr. Hobbes, I think, was the firſt who very ingeniouſly contrived a compendious way of juſtifying the moſt abominable perjuries, and all the miſchiefs enſuing thereupon, by pretending, that as the king's oath is made to the people, the people may abſolve him from the obligation; and that the people having conferred upon him all the power they had, he can do all that they could: he can therefore abſolve himſelf, and is actually free, ſince he is ſo when he pleaſes. This is not falſe in the minor: for the people not having conferred upon him all, but only a part of their power, that of abſolving him remains in themſelves, otherwiſe they would never have obliged him to take the oath. He cannot therefore abſolve himſelf. The pope finds a help for this, and as Chriſt's vicar pretends the power of abſolution to be in him, and exerciſed it in abſolving king John. But our author, deſpairing to impoſe either of theſe upon our age and nation, with more impudence, and leſs wit, would enervate all coronation-oaths by ſubjecting them to the diſcretion of the taker; * whereas all men have hitherto thought their force to conſiſt in the declared ſenſe of thoſe who give them. This

Lib. de cive.

* Verba jurantis obligare in ſenſu quo ea creditur accepiſſe cui juratum eſt—dictis ipſis teſtem adhibens Deum, debet dicta facere vera quomodo putat intelligi. Grotius de jure B & P. l. ii. c. 13.

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doctrine is ſo new, that it ſurpaſſes the ſubtilty of the ſchoolmen, who, as an ingenious perſon ſaid of them, had minced oaths ſo fine, that a million of them, as well as angels, may ſtand upon the point of a needle; and were never yet equalled but by the Jeſuits, who have overthrown them by mental reſervations, which is ſo clearly demonſtrated from their books, that it cannot be denied; but ſo horrible, that even thoſe of their own order who have the leaſt ſpark of common honeſty condemn the practice. And one of them, being a gentleman of a good family, told me, he would go the next day and take all the oaths that ſhould be offered, if he could ſatisfy his conſcience in uſing any manner of equivocation, or mental reſervation; or that he might put any other ſenſe upon them, than he knew to be intended by thoſe who offered them. And if our author's conſcience were not more corrupted than that of the Jeſuit, who had lived fifty years under the worſt diſcipline that I think ever was in the world, I would aſk him ſeriouſly, if he truly believe, that the nobility, clergy, and commonalty of England, who have been always ſo zealous for their antient laws, and ſo reſolute in defending them, did mean no more by the oaths they ſo ſolemnly impoſed, and upon which they laid ſo much weight, than that the king ſhould ſwear to keep them, ſo far only as he ſhould think fit. But "he ſwears only "to obſerve thoſe that are upright, &c." How can that be underſtood otherwiſe, than that thoſe who give the oath, do declare their laws and cuſtoms to be upright and good, and he by taking the oath affirms them to be ſo? Or, how can they be more preciſely ſpecified than by the enſuing clauſe, "Granted from God by juſt and devout "kings by oath, eſpecially thoſe of the famous king Edward?" But, ſays he, by the ſame oath "Richard the 2d was bound to aboliſh thoſe that "were evil." If any ſuch had crept in through error, or been obtruded by malice, the evil being diſcovered and declared by the nobility and commons who were concerned, he was not to take advantage of them, or by his refuſal to evade the abolition, but to join with his people in annulling them, according to the general clauſe of aſſenting to thoſe "quas "vulgus elegerit."

Magna charta being only an abridgment of our antient laws and cuſtoms, the king that ſwears to it, ſwears to them all; and not being admitted to be the interpreter of it, or to determine what is good or evil, fit to be obſerved or annulled in it, can have no more power over the reſt. This having been confirmed by more parliaments than we have had kings ſince that time, the ſame obligation muſt ſtill lie upon them all, as upon John and Henry, in whoſe time that claim of right was compiled. The act was no leſs ſolemn than important; and the moſt dreadful curſes that could be conceived in words, which were denounced againſt ſuch as ſhould any way infringe it, by the clergy in Weſtminſter-hall, in the preſence, and with the aſſent, of K. Henry the 3d, many of the principal nobility, and all the eſtates of the kingdom, ſhew whether it was referred to the king's judgment or not; when it is evident they feared the violation from no other than himſelf, and ſuch as he ſhould employ. I confeſs the church (as they then called the clergy) was fallen into ſuch corruption, that their arms were not much to be feared by one who had

his

his conſcience clear; but that could not be in the caſe of perjury: and our anceſtors could do no better, than to employ the ſpiritual ſword, reſerving to themſelves the uſe of the other, in caſe that ſhould be deſpiſed. Tho' the pope's excommunications proved ſometimes to be but "bruta fulmina," when a juſt cauſe was wanting, it may be eaſily judged what obedience a prince could expect from his ſubjects, when every man knew he had by perjury drawn the moſt heavy curſes upon himſelf. King John was certainly wicked, but he durſt not break theſe bonds till he had procured the pope's abſolution for a cover; and when he had done ſo, he found himſelf unſafe under it, and could not make good what he had promiſed to the pope to obtain it, the parliament declaring, that his grants to the pope were unjuſt, illegal, contrary to his coronation-oath, and that they would not be held by them. This went ſo far in that king's time, that writs were iſſued out to men of all conditions to oblige themſelves by oath to keep the great charter; and if other means failed, "* to compel the "king to perform the conditions." It is expreſly ſaid in his charter, "† That the barons and commonalty of the land ſhall ſtreighten and "compel us by all means poſſible, as by ſeizing our towns, lands, and "poſſeſſions, or any other way, till ſatisfaction be made according to "their pleaſure." And in the charter of his ſon Henry, it is, upon the ſame ſuppoſition of not performing the agreement, ſaid, "‖ It "ſhall be lawful for all men in our kingdom to riſe up againſt us, and "to do all things that may be grievous to us, as if they were abſo-"lutely free from any engagements to our perſon." Theſe words ſeem to have been contrived to be ſo full and ſtrong "propter dupli-"citatem regis," which was with too much reaſon ſuſpected. And it is not, as I ſuppoſe, "the language of ſlaves and villains begging "ſomething from their lord, but of noble and free men, who knew "their lord was no more than what they made him, and had nothing "but what they gave him:" nor the language of a lord treating with ſuch as enjoyed their liberties by his favour, but with thoſe whom he acknowledged to be the judges of his performing what had been ſtipulated; and equals the agreements made between the kings and people of Arragon, which I cited before from the relations of Antonio Perez. This is as far as men can go; and the experience of all ages manifeſts, that princes, performing their office, and obſerving theſe ſtipulations, have lived glorious, happy, and beloved: and I can hardly find an example of any who have notoriouſly broken theſe oaths, and been adjudged to have incurred the penalties, who have not lived miſerably, died ſhamefully, and left an abominable memory to poſterity.

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"But," ſays our author, "kings cannot be more obliged by volun-"tary oaths than other men, and may be relieved from unjuſt and un-"reaſonable promiſes, if they be induced by deceit, error, force, or "fear, or the performance be grievous." Which is to ſay, that no oath is of any obligation: for there is none that is not voluntary, or

* Et quod ipſum regem per captionem diſtringerent & gravarent ad præfata exequenda.

† Et ipſi barones cum communitate totius terræ diſtringent & gravabunt nos modis omnibus quibus poterunt, ſcilicet per captionem caſtrorum, terrarum, poſſeſſionum, & aliis modis quibus potuerint, donec emendatum fuerit ſecundum arbitrium eorum.

‖ Licet omnibus de regno noſtro contra nos inſurgere, & omnia facere quæ gravamen noſtrum reſpiciant, ac ſi nobis in nullo tenerentur.

involuntary;

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involuntary; and there never was any, upon which ſome ſuch thing may not be pretended: which would be the ſame, if ſuch as Filmer had the direction of their conſciences who take the oaths, and of thoſe who are to exact the performance. This would ſoon deſtroy all confidence between king and people, and not only unhinge the beſt eſtabliſhed governments, but by a deteſtable practice of annihilating the force of oaths, and moſt ſolemn contracts, that can be made by men, overthrow all ſocieties that ſubſiſt by them. I leave it to all reaſonable men to judge how fit a work this would be for the ſupreme magiſtrate, who is advanced to the higheſt degree of human glory and happineſs, that he may preſerve them; and how that juſtice, for the obtaining of which governments are conſtituted, can be adminiſtred, if he who is to exact it from others, do in his own perſon utterly ſubvert it; and what they deſerve, who by ſuch baſe prevarications would teach them to pervert and aboliſh the moſt ſacred of all contracts. A worthy perſon of our age was accuſtomed to ſay, that contracts in writing were invented only to bind villains, who having no law, juſtice, or truth, within themſelves, would not keep their words, unleſs ſuch teſtimonies were given as might compel them. But if our author's doctrine were received, no contract would be of more value than a cobweb *. Such as are not abſolutely of a profligate conſcience, ſo far reverence the religion of an oath, as to think, that even thoſe which are moſt unjuſtly and violently impoſed ought to be obſerved; and Julius Cæſar, who I think was not over-ſcrupulous, when he was taken by pirates, and ſet at liberty upon his word, cauſed the ranſom he had promiſed to be paid to them. We ſee the like is practiſed every day by priſoners taken in unjuſt as well as juſt wars: and there is no honeſt man that would not abhor a perſon, who, being taken by the pirates of Algier, ſhould not pay what he had promiſed for his liberty. It were in vain to ſay they had no right of exacting, or that the performance was grievous; he muſt return to the chains, or pay. And tho' the people of Artois, Alſatia, or Flanders, do perhaps, with reaſon, think the king of France has no right to impoſe oaths of allegiance upon them, no man doubts, that if they chuſe rather to take thoſe oaths, than to ſuffer what might enſue upon their refuſal, they are as much bound to be faithful to him as his antient ſubjects.

Grotius l. ii. c. 13. 4.

The like may be ſaid of promiſes extorted by fraud; and no other example is neceſſary to prove they are to be performed than that of Joſhua made to the Gibeonites. They were an accurſed nation, which he was commanded to deſtroy: they came to him with lyes, and by deceit induced him to make a league with them, which he ought not to have done; but being made, it was to be performed; and on that account he did not only ſpare but defend them, and the action was approved by God. When Saul by a prepoſterous zeal violated that

* Qui juravit Deo, obligetur ſtare jurejurando—non enim perſona ſola reſpicitur cui juratur, ſed is qui juratur, Deus—repúdiandus ergo Cicero, cum ait perjurium nullum eſſe, ſi prædonibus pactum, &c. Grotius de jure B. & P. l. ii. c. 13. p. 14, 15. Ipſe, qui juratus aliquid promiſit nocenti, qua talis eſt, puta piratæ, non poteſt jus promiſſo quæſitum poenæ nomine ob id ipſum ei auferre: quia tunc verba nullum haberent effectum, quod omnino vitandum eſt. p. 20. 3. The arguments Pufendorf brings againſt Grotius ſee de jure nat. l. iv. c. 2.

league,

league, the anger of God for that breach of faith could no other- SECT. 17.
wiſe be appeaſed than by the death of ſeven of his children. This caſe is ſo full, ſo preciſe, and of ſuch undoubted authority, that I ſhall not trouble myſelf with any other. But if we believe our man of good morals, voluntary oaths and promiſes are of no more value than thoſe gained by force or deceit, that is to ſay, none are of any. For voluntary ſignifying nothing but free, all human acts are either free or not free, that is, from the will of the perſon, or ſome impulſe from without. If therefore there be no force in thoſe that are free, nor in thoſe that are not free, there is none in any.

No better uſe can be made of any "pretenſion of error," or that the "performance was grievous;" for no man ought to be grieved at the performance of his contract. David aſſures us, that a good man performs his agreement, tho' he loſe by it; and the lord chancellor Egerton told a gentleman, who deſired relief againſt his own deed, upon an allegation that he knew not what he did when he ſigned it, that he did not ſit to relieve fools.

But tho' voluntary promiſes or oaths, when, to uſe the lawyers language, there is not a valuable conſideration, were of no obligation; or that men brought by force, fear, or error, into ſuch contracts as are grievous in the performance, might be relieved; this would not at all reach the caſes of princes, in the contracts made between them and their ſubjects, and confirmed by their oaths, there being no colour of force or fraud, fear or error, for them to alledge; nor any thing to be pretended that can be grievous to perform, otherwiſe than as it may be grievous to an ill man not to do the miſchiefs he had conceived.

Nations, according to their own will, frame the laws by which they reſolve to be governed; and if they do it not wiſely, the damage is only to themſelves: but it is hard to find an example of any people that did by force oblige a man to take upon him the government of them. Gideon was indeed much preſſed by the Iſraelites to be their king; and the army of Germanicus, in a mutiny, more fiercely urged him to be emperor; but both deſiſted when their offers were refuſed. If our kings have been more modeſt, and our anceſtors more pertinacious in compelling them to accept the crowns they offered, I ſhall, upon proof of the matter, change my opinion. But till that do appear, I may be pardoned if I think there was no ſuch thing. William the Norman was not by force brought into England, but came voluntarily, and deſired to be king: the nobility, clergy, and commons, propoſed the conditions upon which they would receive him. Theſe conditions were to govern according to their antient laws, eſpecially thoſe that had been granted, or rather collected in the time of the famous king Edward. Here was neither force nor fraud; if he had diſliked the terms, he might have retired as freely as he came. But he did like them; and tho' he was not perhaps ſo modeſt, to ſay with the brave Saxon king Offa, "Ad libertatis veſtræ tuitionem, "non meis meritis, ſed ſola liberalitate veſtra, unanimiter me convo- "cāſtis," he accepted the crown upon the conditions offered and ſwore upon the evangeliſts to obſerve them. Not much valuing this, he pretended to govern according to his own will; but finding the people would not endure it, he renewed his oath upon the ſame evangeliſts, Addit. Mat. Par.

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and the reliques of S. Alban, which he needed not to have done, but might have departed to his duchy of Normandy if he had not liked the conditions, or thought not fit to obſerve them. It is probable he examined the contents of Edward's laws before he * ſwore to them, and could not imagine, that a free nation, which never had any other kings than ſuch as had been choſen by themſelves for the preſervation of their liberty, and from whoſe liberality the beſt of their kings acknowledged the crowns they wore, did intend to give up their perſons, liberties, and eſtates, to him, who was a ſtranger, moſt eſpecially when they would not receive him till he had ſworn to the ſame laws by which the others had reigned, of which one was (as appears by the act of the Conventus Pananglicus) that "reges à ſacerdotibus & "ſenioribus populi eligantur, the kings ſhould be elected by the clergy "and elders of the people." By theſe means he was advanced to the crown, to which he could have no title, unleſs they had the right of conferring it upon him. Here was therefore no force, deceit, or error; and whatſoever equity there might be to relieve one that had been forced, frighted, or circumvented, it was nothing to this caſe. We do not find, that William II. or Henry, were forced to be kings; no ſword was put to their throats; and for any thing we know, the Engliſh nation was not then ſo contemptible but men might have been found in the world, who would willingly have accepted the crown, and even their elder brother Robert would not have refuſed: but the nobility and commons, truſting to their oaths and promiſes, thought fit to prefer them before him; and when he endeavoured to impoſe himſelf upon the nation by force, they ſo ſeverely puniſhed him, that no better proof can be required to ſhew, that they were accuſtomed to have no other kings than ſuch as they approved. And this was one of the cuſtoms that all their kings ſwore to maintain, it being as antient, juſt, and well-approved, as any other.

Having already proved, that all the kings we have had ſince that time, have come in upon the ſame title; that the Saxon laws to which all have ſworn, continue to be of force amongſt us, and that the words pronounced four times, on the four ſides of the ſcaffold, by the archbiſhop, "Will ye have this man to reign?" do teſtify it; I may ſpare the pains of a repetition, and juſtly conclude, that if there was neither force nor fraud, fear nor error, to be pretended by the firſt, there could be none in thoſe that followed.

But the "obſervation of this oath may be grievous." If I received money the laſt year upon bond, promiſe, or ſale of a manor or farm, can it be thought grievous to me to be compelled to repay, or to make over the land according to my agreement? Or if I did not ſeal the bond till I had the money, muſt not I perform the condition, or at the leaſt reſtore what I had received? If it be grievous to any king to preſerve the liberties, lives, and eſtates, of his ſubjects, and to govern according to their laws, let him reſign the crown, and the people to whom the oath was made, will probably releaſe him. Others may poſſibly be found who will not think it grievous: or if none will accept a crown unleſs they may do what they pleaſe, the

* Bonas & approbatas antiquas regni leges, quas ſancti & pii reges ejus anteceſſores, & maxime Edvardus ſtatuit, inviolabiliter obſervare.

people muſt bear the misfortune of being obliged to govern themſelves, or to inſtitute ſome other ſort of magiſtracy, that will be ſatisfied with a leſs exorbitant power. Perhaps they may ſucceed as well as ſome others have done, who, without being brought to that neceſſity, have voluntarily caſt themſelves into the miſery of living without the majeſtic ſplendor of a monarch: or, if that fail, they may, as their laſt refuge, ſurrender up themſelves to ſlavery. When that is done, we will acknowledge, that whatſoever we have is derived from the favour of our maſter. But no ſuch thing yet appearing amongſt us, we may be pardoned, if we think we are free-men governed by our own laws, and that no man has a power over us, which is not given and regulated by them; nor that any thing, but a new law made by ourſelves, can exempt our kings from the obligation of performing their oaths taken, to govern according to the old, in the true ſenſe of the words, as they are underſtood in our language by thoſe who give them, and conducing to the ends for which they are given, which can be no other, than to defend us from all manner of arbitrary power, and to fix a rule to which we are to conform our actions, and from which, according to our deſerts, we may expect reward or puniſhment. And thoſe who by prevarications, cavils, or equivocations, endeavour to diſſolve theſe obligations, do either maliciouſly betray the cauſe of kings, by repreſenting them to the world as men, who prefer the ſatisfaction of their irregular appetites before the performance of their duty, and trample under-foot the moſt ſacred bonds of human ſociety; or from the groſſeſt ignorance do not ſee, that by teaching nations how little they can rely upon the oaths of their princes, they inſtruct them as little to obſerve their own; and that not only, becauſe men are generally inclined to follow the examples of thoſe in power, but from a moſt certain concluſion, that he, who breaks his part of a contract, cannot without the utmoſt impudence and folly expect the performance of the other; nothing being more known amongſt men, than, that all contracts are of ſuch mutual obligation, that he who fails of his part, diſcharges the other. If this be ſo between man and man, it muſt needs be ſo between one and many millions of men: if he were free, becauſe he ſays he is, every man muſt be free alſo when he pleaſes: if a private man, who receives no benefit, or perhaps prejudice, from a contract, be obliged to perform the conditions, much more are kings, who receive the greateſt advantages the world can give. As they are not by themſelves, nor for themſelves, ſo they are not different in ſpecie from other men: they are born, live, and die, as we all do. The ſame law of truth and juſtice is given to all by God and nature; and perhaps I may ſay, the performance of it is moſt rigorouſly exacted from the greateſt of men. The liberty of perjury cannot be a privilege annexed to crowns; and it is abſurd to think, that the moſt venerable authority, that can be conferred upon a man, is increaſed by a liberty to commit, or impunity in committing, ſuch crimes, as are the greateſt aggravations of infamy to the baſeſt villains in the world.

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The next in blood to deceaſed kings cannot generally be ſaid to be kings till they are crowned.

IT is hereupon uſually objected, that kings do not come in by contract, nor by oath; but are kings by, or according to proximity of blood, before they are crowned. Tho' this be a bold propoſition, I will not ſay, it is univerſally falſe. It is poſſible, that in ſome places the rule of ſucceſſion may be ſet down ſo preciſely, that, in ſome caſes, every man may be able to ſee and know the ſenſe, as well as the perſon deſigned to be the ſucceſſor: but before I acknowledge it to be univerſally true, I muſt deſire to know what this rule of ſucceſſion is, and from whence it draws its original.

I think I may be excuſed, if I make theſe ſcruples, becauſe I find the thing in diſpute to be variouſly adjudged in ſeveral places; and have obſerved five different manners of diſpoſing crowns eſteemed hereditary, beſides an infinite number of collateral controverſies ariſing from them, of which we have divers examples; and if there be one univerſal rule appointed, one of theſe only can be right, and all the others muſt be vicious. The firſt gives the inheritance to the eldeſt male of the eldeſt legitimate line, as in France, according to that which they call the ſalique law. The ſecond, to the eldeſt legitimate male of the reigning family, as antiently in Spain, according to which the brother of the deceaſed king has been often, if not always, preferred before the ſon, if he were elder, as may appear by the diſpute between Corbis and Orſua, cited before from Titus Livius; and in the ſame country, during the reign of the Goths, the eldeſt male ſucceeded, whether legitimate or illegitimate. The fourth receives females, or their deſcendents, without any other condition diſtinguiſhing them from males, except that the younger brother is preferred before the elder ſiſter, but the daughter of the elder brother is preferred before the ſon of the younger. The fifth gives the inheritance to females under a condition, as in Sweden, where they inherit, unleſs they marry out of the country without the conſent of the eſtates; according to which rule, Charles Guſtavus was choſen, as any ſtranger might have been, tho' ſon to a ſiſter of Guſtavus Adolphus, who by marrying a German prince had forfeited her right. And by the ſame act of eſtates, by which her eldeſt ſon was choſen, and the crown entailed upon the heirs of his body, her ſecond ſon, the prince Adolphus, was wholly excluded.

Till theſe queſtions are decided by a judge of ſuch an undoubted authority, that all men may ſafely ſubmit, it is hard for any man, who really ſeeks the ſatisfaction of his conſcience, to know whether the law of God and nature (tho' he ſhould believe, there is one general

neral law) do juſtify the cuſtom of the antient * Medes and Sabe- SECT. 18.
ans, mentioned by the poet, who admitted females, or thoſe of France, which totally exclude them as unfit to reign over men, and utterly unable to perform the duty of a ſupreme magiſtrate, as we ſee they are every where excluded from the exerciſe of all other offices in the commonwealth. If it be ſaid, that we ought to follow the cuſtoms of our own country, I anſwer, that thoſe of our own country deſerve to be obſerved, becauſe they are of our own country: but they are no more to be called the laws of God and nature than thoſe of France or Germany; and tho' I do not believe, that any general law is appointed, I wiſh I were ſure, that our cuſtoms in this point were not more repugnant to the light of nature, and prejudicial to ourſelves, than thoſe of ſome other nations. But if I ſhould be ſo much an Engliſhman, to think the will of God to have been more particularly revealed to our anceſtors, than to any other nation, and that all of them ought to learn from us; yet it would be difficult to decide many queſtions that may ariſe. For tho' the parliament, in the 36th of Henry the Sixth, made an act in favour of Richard duke of York, deſcended from a daughter of Mortimer, who married the daughter of the duke of Clarence, elder brother to John of Gaunt, they rather aſſerted their own power of giving the crown to whom they pleaſed, than determined the queſtion. For if they had believed, that the crown had belonged to him by a general and eternal law, they muſt immediately have rejected Henry as a uſurper, and put Richard into the poſſeſſion of his right, which they did not. And tho' they did ſomething like to this in the caſes of Maud the empreſs, in relation to king Stephen, and her ſon Henry the Second; and of Henry the Seventh in relation to the houſe of York, both before he had married a daughter of it, and after her death; they did the contrary in the caſes of William the Firſt and Second, Henry the Firſt, Stephen, John, Richard the Third, Henry the Seventh, Mary, Elizabeth, and others. So that, for any thing I can yet find, it is equally difficult to diſcover the true ſenſe of the law of nature, that ſhould be a guide to my conſcience, whether I ſo far ſubmit to the laws of my country, to think, that England alone has produced men that rightly underſtand it, or examine the laws and practices of other nations.

Whilſt this remains undecided, it is impoſſible for me to know to whom I owe the obedience that is exacted from me. If I were a Frenchman, I could not tell whether I owed allegiance to the king of Spain, duke of Lorrain, duke of Savoy, or many others deſcended from daughters of the houſe of Valois, one of whom ought to inherit, if the inheritance belongs to females; or to the houſe of Bourbon, whoſe only title is founded upon the excluſion of them. The like controverſies will be in all places; and he that would put mankind upon ſuch inquiries, goes about to ſubvert all the governments of the world, and arms every man to the deſtruction of his neighbour.

* ——Medis levibuſque Sabæis
Imperat hic ſexus, reginarumque ſub armis
Barbaries pars magna jacet.——Lucan.

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We ought to be informed when this right began: if we had the genealogy of every man from Noah, and the crowns of every nation had ſince his time continued in one line, we were only to inquire into how many kingdoms he appointed the world to be divided, and how well the diviſion we ſee at this day agrees with the allotment made by him. But mankind having for many ages lain under ſuch a vaſt confuſion, that no man pretends to know his own original, except ſome Jews, and the princes of the houſe of Auſtria, we cannot ſo eaſily arrive at the end of our work; and the Scriptures making no other mention of this part of the world, than what may induce us to think it was given to the ſons of Japhet, we have nothing that can lead us to gueſs how it was to be ſubdivided, nor to whom the ſeveral parcels were given: ſo that the difficulties are abſolutely inextricable; and tho' it were true, that ſome one man had a right to every parcel that is known to us, it could be of no uſe; for that right muſt neceſſarily periſh, which no man can prove, nor indeed claim. But as all natural rights by inheritance muſt be by deſcent, this deſcent not being proved, there can be no natural right; and all rights being either natural, created, or acquired, this right to crowns not being natural, muſt be created or acquired, or none at all.

There being no general law common to all nations, creating a right to crowns (as has been proved by the ſeveral methods uſed by ſeveral nations in the diſpoſal of them, according to which all thoſe that we know are enjoyed), we muſt ſeek the right, concerning which we diſpute, from the particular conſtitutions of every nation, or we ſhall be able to find none.

Acquired rights are obtained, as men ſay, either by fair means or by foul, that is, by force or by conſent: ſuch as are gained by force, may be recovered by force; and the extent of thoſe that are enjoyed by conſent, can only be known by the reaſons for which, or the conditions upon which that conſent was obtained, that is to ſay, by the laws of every people. According to theſe laws it cannot be ſaid, that there is a king in every nation before he is crowned. John Sobietſki, now reigning in Poland, had no relation in blood to the former kings, nor any title till he was choſen. The laſt king of Sweden acknowledged he had none, but was freely elected; and the crown being conferred upon him, and the heirs of his body, if the preſent king dies without iſſue, the right of electing a ſucceſſor returns undoubtedly to the eſtates of the country. The crown of Denmark was elective till it was made hereditary by an act of the general diet, held at Copenhagen in the year 1660; and it is impoſſible, that a right ſhould otherwiſe accrue to a younger brother of the houſe of Holſtein, which is derived from a younger brother of the counts of Oldenburgh. The Roman empire having paſſed through the hands of many perſons of different nations, no way relating to each other in blood, was by Conſtantine transferred to Conſtantinople; and after many revolutions coming to Theodoſius, by birth a Spaniard, was divided between his two ſons Arcadius and Honorius. From thence paſſing to ſuch as could gain moſt credit with the ſoldiers, the weſtern empire being brought almoſt to nothing, was reſtored by

Charles the Great of France; and, continuing for ſome time in his deſcendents, came to the Germans; who, having created ſeveral emperors of the houſes of Suevia, Saxony, Bavaria, and others, as they pleaſed, about three hundred years paſt choſe Rodolphus of Auſtria: and tho', ſince that time, they have not had any emperor who was not of that family; yet ſuch as were choſen had nothing to recommend them, but the merits of their anceſtors, their own perſonal virtues, or ſuch political conſiderations as might ariſe from the power of their hereditary countries, which, being joined with thoſe of the empire, might enable them to make the better defence againſt the Turks. But, in this line alſo, they have had little regard to inheritance according to blood; for the elder branch of the family is that which reigns in Spain; and the empire continues in the deſcendents of Ferdinand younger brother to Charles the Fifth, tho' ſo unfixed even to this time, that the preſent emperor Leopold was in great danger of being rejected. SECT. 18.

If it be ſaid, that theſe are elective kingdoms, and our author ſpeaks of ſuch as are hereditary; I anſwer, that if what he ſays be true, there can be no elective kingdom, and every nation has a natural lord, to whom obedience is due. But if ſome are elective, all might have been ſo, if they had pleaſed, unleſs it can be proved, that God created ſome under a neceſſity of ſubjection, and left to others the enjoyment of their liberty. If this be ſo, the nations that are born under that neceſſity may be ſaid to have a natural lord, who has all the power in himſelf, before he is crowned, or any part conferred on him by the conſent of the people; but it cannot extend to others. And he who pretends a right over any nation upon that account, ſtands obliged to ſhew, when and how that nation came to be diſcriminated by God from others, and deprived of that liberty, which he in goodneſs had granted to the reſt of mankind. I confeſs, I think there is no ſuch right, and need no better proof, than the various ways of diſpoſing inheritances in ſeveral countries, which, not being naturally or univerſally better or worſe one than another, cannot ſpring from any other root, than the conſent of the ſeveral nations where they are in force, and their opinions, that ſuch methods were beſt for them. But if God have made a diſcrimination of people, he that would thereupon ground a title to the dominion of any one, muſt prove that nation to be under the curſe of ſlavery; which, for any thing I know, was only denounced againſt Cham; and it is as hard to determine whether the ſenſe of it be temporal, ſpiritual, or both, as to tell preciſely what nations, by being only deſcended from him, fall under the penalties threatened.

If theſe therefore be either intirely falſe, or impoſſible to be proved true, there is no diſcrimination, or not known to us; and every people has a right of diſpoſing of their government, as well as the Polanders, Danes, Swedes, Germans, and ſuch as are or were under the Roman empire. And if any nation has a natural lord before he be admitted by their conſent, it muſt be by a peculiar act of their own; as the crown of France by an act of that nation, which they call the ſalique law, is made hereditary to males in a direct line, or the neareſt to the direct; and others in other places are otherwiſe diſpoſed.

CHAP. III. I might reſt here with full aſſurance, that no diſciple of Filmer can prove this of any people in the world, nor give ſo much as the ſhadow of a reaſon to perſuade us there is any ſuch thing in any nation, or at leaſt in thoſe where we are concerned; and preſume little regard will be had to what he has ſaid, ſince he cannot prove of any that which he ſo boldly affirms of all. But becauſe good men ought to have no other object than truth, which in matters of this importance can never be made too evident, I will venture to go farther, and aſſert, that as the various ways by which ſeveral nations diſpoſe of the ſucceſſion to their reſpective crowns, ſhew they were ſubject to no other law than their own, which they might have made different, by the ſame right they made it to be what it is, even thoſe who have the greateſt veneration for the reigning families, and the higheſt regard for proximity of blood, have always preferred the ſafety of the commonwealth before the concernments of any perſon or family; and have not only laid aſide the neareſt in blood, when they were found to be notoriouſly vicious and wicked, but when they have thought it more convenient to take others: and to prove this I intend to make uſe of no other examples, than thoſe I find in the hiſtories of Spain, France, and England.

Whilſt the Goths governed Spain, not above four perſons in the ſpace of three hundred years were the immediate ſucceſſors of their fathers, but the brother, couſin-german, or ſome other man of the families of the Balthei or Amalthei, was preferred before the children of the deceaſed king: and if it be ſaid, this was according to the law of that kingdom, I anſwer, that it was therefore in the power of that nation to make laws for themſelves, and conſequently others have the ſame right. One of their kings called Wamba was depoſed, and made a monk, after he had reigned well many years; but falling into a ſwoon, and his friends thinking him paſt recovery, cut off his hair, and put a monk's frock upon him, that, according to the ſuperſtition of thoſe times, he might die in it; and the cutting off the hair being a moſt diſgraceful thing amongſt the Goths, they would not reſtore him to his authority. Suintila, another of their kings, being deprived of the crown for his ill government, his children and brothers were excluded, and Siſinandus crowned in his room.

Saavedra coron. Goth.

Mar. hiſt. l. vi.

Saaved. cor. Goth.

This kingdom being not long after overthrown by the Moors, a new one aroſe from its aſhes, in the perſon of Don Pelayo firſt king of the Aſturia's, which, increaſing by degrees, at laſt came to comprehend all Spain, and ſo continues to this day: but, not troubling myſelf with all the deviations from the common rule in the collateral lines of Navarre, Arragon, and Portugal, I find that by fifteen ſeveral inſtances in that one ſeries of kings in the Aſturia's and Leon (who afterwards came to be kings of Caſtile) it is fully proved, that what reſpect ſoever they ſhewed to the next in blood, who by the law were to ſucceed, they preferred ſome other perſon, as often as the ſupreme law of "taking care, that the nation might receive no detriment," perſuaded them to it.

Don Pelayo enjoyed for his life the kingdom conferred upon him by the Spaniards, who with him retired into the mountains to defend

themſelves againſt the Moors, and was ſucceeded by his ſon Favila. SECT. 18.
But tho' Favila left many ſons when he died, Alphonſo ſurnamed the Chaſte was advanced to the crown, and they all laid aſide. Fruela, ſon to Alphonſo the Catholic, was for his cruelty depoſed, put to death, and his ſons excluded. Aurelio his couſin-german ſucceeded him; and at his death Silo, who married his wife's ſiſter, was preferred before the males of the blood royal. Alphonſo, ſurnamed el Caſto, was firſt violently diſpoſſeſſed of the crown by a baſtard of the royal family; but he being dead, the nobility and people, thinking Alphonſo more fit to be a monk than a king, gave the crown to Bermudo called el Diacono; but Bermudo after ſeveral years reſigning the kingdom, they conceived a better opinion of Alphonſo, and made him king. Alphonſo dying without iſſue, Don Ramiro ſon to Bermudo was preferred before the nephews of Alphonſo. Don Ordonno, fourth from Ramiro, left four legitimate ſons; but they being young, the eſtates laid them aſide, and made his brother Fruela king. Fruela had many children; but the ſame eſtates gave the crown to Alphonſo the Fourth, who was his nephew. Alphonſo, turning monk, recommended his ſon Ordonno to the eſtates of the kingdom; but they refuſed him, and made his brother Ramiro king. Ordonno third ſon to Ramiro, dying, left a ſon called Bermudo; but the eſtates took his brother Sancho, and advanced him to the throne. Henry the Firſt, being accidently killed in his youth, left only two ſiſters, Blanche married to Lewis, ſon to Philip Auguſt king of France; and Berenguela married to Alphonſo king of Leon. The eſtates made Ferdinand, ſon of Berenguela the youngeſt ſiſter, king, excluding Blanche, with her huſband and children, for being ſtrangers, and Berenguela herſelf, becauſe they thought not fit that her huſband ſhould have any part in the government. Alphonſo el Savio ſeems to have been a very good prince; but, applying himſelf more to the ſtudy of aſtrology than to affairs of government, his eldeſt ſon Ferdinand de la Cerda dying, and leaving his ſons Alphonſo and Ferdinand very young, the nobility, clergy, and people, depoſed him, excluded his grandchildren, and gave the crown to Don Sancho his younger ſon ſurnamed el Bravo, thinking him more fit to command them againſt the Moors, than an old aſtrologer, or a child. Alphonſo and Sancho being dead, Alphonſo el Deſheredado laid claim to the crown; but it was given to Ferdinand the Fourth, and Alphonſo, with his deſcendents the dukes de Medina Celi, remain excluded to this day. Peter ſurnamed the Cruel was twice driven out of the kingdom, and at laſt killed by Bertrand de Gueſclin conſtable of France, or Henry count of Traſtamara his baſtard-brother, who was made king without any regard to the daughters of Peter, or to the houſe of la Cerda. Henry the Fourth left a daughter called Joan, whom he declared his heir; but the eſtates gave the kingdom to Iſabel his ſiſter, and crowned her with Ferdinand of Arragon her huſband. Joan daughter to this Ferdinand and Iſabel falling mad, the eſtates committed the care of the government to her father Ferdinand, and after his death to Charles her ſon.

Marian. l. xiii.

Marian. l. xii. c. 7.

Marian. l. xxiv.

But the French have taught us, that when a king dies, his next heir is really king before he take his oath, or be crowned. From them we learn, that "le mort ſaiſit le vif." And yet I know no hiſtory that

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proves more plainly than theirs, that there neither is nor can be in any man, a right to the government of a people, which does not receive its being, manner, and meaſure, from the law of that country; which I hope to juſtify by four reaſons,

1. When a king of Pharamond's race died, the kingdom was divided into as many parcels as he had ſons; which could not have been, if one certain heir had been aſſigned by nature; for he ought to have had the whole: and if the kingdom might be divided, they who inhabited the ſeveral parcels, could not know to whom they owed obedience, till the diviſion was made, unleſs he who was to be king of Paris, Metz, Soiſſons, or Orleans, had worn the name of his kingdom upon his forehead. But, in truth, if there might be a diviſion, the doctrine is falſe, and there was no lord of the whole. This wound will not be healed by ſaying, The father appointed the diviſion, and that by the law of nature every man may diſpoſe of his own as he thinks fit; for we ſhall ſoon prove, that the kingdom of France neither was, nor is, diſpoſeable as a patrimony or chattel. Beſides, if that act of kings had been then grounded upon the law of nature, they might do the like at this day. But the law, by which ſuch diviſions were made, having been abrogated by the aſſembly of eſtates in the time of Hugh Capet, and never practiſed ſince, it follows that they were grounded upon a temporary law, and not upon the law of nature, which is eternal. If this were not ſo, the pretended certainty could not be; for no man could know to whom the laſt king had bequeathed the whole kingdom, or parcels of it, till the will were opened; and that muſt be done before ſuch witneſſes as may deſerve credit in a matter of this importance, and are able to judge whether the bequeſt be rightly made; for otherwiſe no man could know, whether the kingdom was to have one lord or many, nor who he or they were to be; which intermiſſion muſt neceſſarily ſubvert their polity, and this doctrine. But the truth is, the moſt monarchical men among them are ſo far from acknowledging any ſuch right to be in the king, of alienating, bequeathing, or dividing the kingdom, that they do not allow him the right of making a will; and that of the laſt king Lewis the Thirteenth touching the regency during the minority of his ſon was of no effect.

Hiſt. de Fr. en la vie de Hugues Capet.

Mem. du duc de la Rochefocault.

2. This matter was made more clear under the ſecond race. If a lord had been aſſigned to them by nature, he muſt have been of the royal family: but Pepin had no other title to the crown except the merits of his father, and his own, approved by the nobility and people who made him king. He had three ſons, the eldeſt was made king of Italy, and, dying before him, left a ſon called Bernard heir of that kingdom. The eſtates of France divided what remained between Charles the Great and Carloman. The laſt of theſe dying in few years, left many ſons; but the nobility made Charles king of all France, and he diſpoſſeſſed Bernard of the kingdom of Italy inherited from his father: ſo that he alſo was not king of the whole, before the expulſion of Bernard the ſon of his elder brother; nor of Aquitain, which by inheritance ſhould have belonged to the children of his younger brother, any otherwiſe than by the will of the eſtates. Lewis the Debonair ſucceeded upon the ſame title, was depoſed, and

Paul. Æmyl. Hiſt. Franc.

put

put into a monaſtery by his three ſons Lothair, Pepin, and Lewis, whom he had by his firſt wife. But tho' theſe left many ſons, the kingdom came to Charles the Bald. The nobility and people, diſliking the eldeſt ſon of Charles, gave the kingdom to Lewis le Begue, who had a legitimate ſon called Charles le Simple; and two baſtards, Lewis and Carloman, who were made kings. Carloman had a ſon called Lewis le Faineant; he was made king, but afterwards depoſed for his vicious life. Charles le Gros ſucceeded him, but for his ill government was alſo depoſed; and Odo, who was a ſtranger to the royal blood, was made king. The ſame nobility that had made five kings ſince Lewis le Begue, now made Charles le Simple king, who, according to his name, was entrapped at Peronne by Ralph duke of Burgundy, and forced to reſign his crown, leaving only a ſon called Lewis, who fled into England. Ralph being dead, they took Lewis ſurnamed Outremer, and placed him in the throne: he had two ſons, Lothair and Charles. Lothair ſucceeded him, and died without iſſue. Charles had as fair a title as could be by birth, and the eſtates confeſſed it; but their ambaſſadors told him, that he having by an unworthy life rendered himſelf unworthy of the crown, they, whoſe principal care was to have a good prince at the head of them, had choſen Hugh Capet; and the crown continues in his race to this day, tho' not altogether without interruption. Robert, ſon to Hugh Capet, ſucceeded him. He left two ſons Robert and Henry; but Henry the younger ſon appearing to the eſtates of the kingdom to be more fit to reign than his elder brother, they made him king; Robert, and his deſcendents, continuing dukes of Burgundy only for about ten generations, at which time his iſſue male failing, that duchy returned to the crown during the life of king John, who gave it to his ſecond ſon Philip for an apannage ſtill depending upon the crown. The ſame province of Burgundy was by the treaty of Madrid granted to the emperor Charles the Fifth, by Francis the Firſt: but the people refuſed to be alienated, and the eſtates of the kingdom approved their refuſal. By the ſame authority Charles the Sixth was removed from the government, when he appeared to be mad; and other examples of a like nature may be alledged. From which we may ſafely conclude, that if the death of one king do really inveſt the next heir with the right and power, or that he who is ſo inveſted, be ſubject to no law but his own will, all matters relating to that kingdom muſt have been horribly confuſed during the reigns of 22 kings of Pharamond's race; they can have had no rightful king from the death of Chilperic to king John: and the ſucceſſion ſince that time is very liable to be queſtioned, if not utterly overthrown by the houſe of Auſtria and others, who by the counts of Hapsburg derive their deſcent from Pharamond, and by the houſe of Lorrain claiming from Charles, who was excluded by Capet; all which is moſt abſurd, and they who pretend it, bring as much confuſion into their own laws, and upon the polity of their own nation, as ſhame and guilt upon the memory of their anceſtors, who, by the moſt extreme injuſtice, have rejected their natural lord, or diſpoſſeſſed thoſe who had been in the moſt ſolemn manner placed in

SECT. 18.

CHAP. III. in the government, and to whom they had generally ſworn allegiance.

3. If the next heir be actually king, ſeized of the power by the death of his predeceſſor, ſo that there is no intermiſſion; then all the ſolemnities, and religious ceremonies, uſed at the coronations of their kings, with the oaths given and taken, are the moſt profane abuſes of ſacred things, in contempt of God and man, that can be imagined, moſt eſpecially if the act be (as our author calls it) voluntary, and the king, receiving nothing by it, be bound to keep it no longer than he pleaſes. The prince who is to be ſworn, might ſpare the pains of watching all night in the church, faſting, praying, confeſſing, communicating, and ſwearing, "that he will, to the utmoſt "of his power, defend the clergy, maintain the union of the church, "obviate all exceſs, rapine, extortion, and iniquity; take care, that "in all judgments juſtice may be obſerved, with equity and mercy, &c. "or of invoking the aſſiſtance of the Holy Ghoſt for the better per-"formance of his oath;" and without ceremony tell the nobility and people, that he would do what he thought fit. It were to as little purpoſe for the archbiſhop of Rheims to take the trouble of ſaying maſs, delivering to him the crown, ſceptre, and other enſigns of royalty, explaining what is ſignified by them, anointing him with the oil which they ſay was delivered by an angel to St. Remigius, bleſſing him, and praying to God to bleſs him, if he rightly performed his oath to God and the people, and denouncing the contrary in caſe of failure on his part, if theſe things conferred nothing upon him but what he had before, and were of no obligation to him. Such ludifications of the moſt ſacred things are too odious and impious to be imputed to nations that have any virtue, or profeſs chriſtianity. This cannot fall upon the French and Spaniards, who had certainly a great zeal to religion, whatever it was; and were ſo eminent for moral virtues as to be a reproach to us, who live in an age of more knowledge. But their meaning is ſo well declared by their moſt ſolemn acts, that none but thoſe who are wilfully ignorant can miſtake. One of the councils held at Toledo declared by the clergy, nobility, and others aſſiſting, "that no man ſhould be placed in the royal ſeat till he had ſworn to "preſerve the church," &c. Another held in the ſame place ſignified to Siſinandus, who was then newly crowned, "that if he, or any of "his ſucceſſors, ſhould, contrary to their oaths, and the laws of their "country, proudly and cruelly preſume to exerciſe domination over "them, he ſhould be excommunicated, and ſeparated from Chriſt and "them to eternal judgment." The French laws, and their beſt writers, aſſerting the ſame things, are confirmed by perpetual practice. Henry of Navarre, tho' certainly, according to their rules, and in their eſteem, a moſt accompliſhed prince, was by two general aſſemblies of the eſtates held at Blois, deprived of the ſucceſſion for being a proteſtant; and notwithſtanding the greatneſs of his reputation, valour, victories, and affability, could never be admitted till he had made himſelf capable of the ceremonies of his coronation, by conforming to the religion which by the oath he was to defend. Nay this preſent king, tho' haughty enough by nature, and elevated by many ſuc-

Concil. Tolet 6.

Concil. Tolet 4.

Hiſt. Thuan.

ceſſes, has acknowledged, as he ſays, with joy, that he can do nothing contrary to law, and calls it a happy impotence; in purſuance of which, he has annulled many acts of his father and grandfather, alienating the demeſnes of the crowns, as things contrary to law, and not within their power. SECT. 18.

Theſe things being confirmed by all the good authors of that nation, Filmer finds only the worſt to be fit for his turn; and neither minding law nor hiſtory, takes his maxims from a vile flattering diſcourſe of Bellay, calculated for the perſonal intereſt of Henry the Fourth then king of Navarre, in which he ſays, "That the heir apparent, tho' furious, mad, a fool, vicious, and in all reſpects abominably wicked, muſt be admitted to the crown." But Bellay was ſo far from attaining the ends deſigned by his book, that by ſuch doctrines, which filled all men with horror, he brought great prejudice to his maſter, and procured little favour from Henry, who deſired rather to recommend himſelf to his people, as the beſt man they could ſet up, than to impoſe a neceſſity upon them of taking him, if he had been the worſt. But our author, not contented with what this ſycophant ſays, in relation to ſuch princes as are placed in the government by a law eſtabliſhing the ſucceſſion by inheritance, with an impudence peculiar to himſelf, aſſerts the ſame right to be in any man, who by any means gets into power; and impoſes the ſame neceſſity of obedience upon the ſubject where there is no law, as Ballay does by virtue of one that is eſtabliſhed. Apol. Cathol.

4. In the laſt place: As Bellay acknowledges, that the right belongs to princes only, where it is eſtabliſhed by law, I deny that there is, was, or ever can be, any ſuch. No people is known to have been ſo mad or wicked, as by their own conſent, for their own good, and for the obtaining of juſtice, to give the power to beaſts, under whom it could never be obtained: or if we could believe, that any had been guilty of an act ſo full of folly, turpitude, and wickedneſs, it could not have the force of a law, and could never be put in execution; for tho' the rules, by which the proximity ſhould be judged, be never ſo preciſe, it will ſtill be doubted whoſe caſe ſuits beſt with them. Tho' the law in ſome places gives private inheritances to the next heir, and in others makes allotments according to ſeveral proportions, no one knows to whom, or how far, the benefit ſhall accrue to any man, till it be adjudged by a power to which the parties muſt ſubmit. Conteſts will in the like manner ariſe concerning ſucceſſions to crowns, how exactly ſoever they be diſpoſed by law: for tho' every one will ſay, that the next ought to ſucceed, yet no man knows who is the next; which is too much verified by the bloody deciſions of ſuch diſputes in many parts of the world: and he that ſays, the next in blood is actually king, makes all queſtions thereupon ariſing impoſſible to be otherwiſe determined, than by the ſword; the pretender to the right being placed above the judgment of man, and the ſubjects (for any thing I know) obliged to believe, ſerve, and obey him, if he ſays he has it. For otherwiſe, if either every man in particular, or all together, have a right of judging his title, it can be of no value till it be adjudged.

CHAP. III. I confeſs, that the law of France, by the utter excluſion of females, and their deſcendents, does obviate many dangerous and inextricable difficulties; but others remain, which are ſufficient to ſubvert all the polity of that kingdom, if there be not a power of judging them; and there can be none if it be true, that "le mort ſaiſit le vif." Not to trouble myſelf with feigned caſes, that of legitimation alone will ſuffice. It is not enough to ſay, that the children born under marriage are to be reputed legitimate; for not only ſeveral children born of Joan daughter to the king of Portugal, wife to Henry the Fourth of Caſtile, during the time of their marriage, were utterly rejected, as begotten in adultery, but alſo her daughter Joan, whom the king during his life, and at the hour of his death, acknowledged to have been begotten by him; and the only title that Iſabel, who was married to Ferdinand of Arragon, had to the crown of Spain, was derived from their rejection. It would be tedious, and might give offence to many great perſons, if I ſhould relate all the dubious caſes, that have been, or ſtill remain in the world, touching matters of this nature: but the lawyers of all nations will teſtify, that hardly any one point comes before them, which affords a greater number of difficult caſes, than that of marriages, and the legitimation of children upon them; and nations muſt be involved in the moſt inextricable difficulties, if there be not a power ſomewhere to decide them; which cannot be, if there be no intermiſſion, and that the next in blood (that is, he who ſays he is the next) be immediately inveſted with the right and power. But ſurely no people has been ſo careleſs of their moſt important concernments, to leave them in ſuch uncertainty, and ſimply to depend upon the humour of a man, or the faith of women, who, beſides their other frailties, have been often accuſed of ſuppoſititious births: and mens paſſions are known to be ſo violent in relation to women they love or hate, that none can ſafely be truſted with thoſe judgments. The virtue of the beſt would be expoſed to a temptation, that fleſh and blood can hardly reſiſt; and ſuch as are leſs perfect would follow no other rule than the blind impulſe of the paſſion, that for the preſent reigns in them. There muſt therefore be a judge of ſuch diſputes as may in theſe caſes ariſe in every kingdom; and tho' it is not my buſineſs to determine, who is that judge in all places, yet I may juſtly ſay, that in England it is the parliament. If no inferior authority could debar Ignotus ſon to the lady Roſſe, born under the protection, from the inheritance of a private family, none can certainly aſſume a power of diſpoſing of the crown upon any occaſion. No authority, but that of the parliament, could legitimate the children of Catharine Swinford, with a proviſo, not to extend to the inheritance of the crown. Others might ſay, if they were lawfully begotten, they ought to inherit every thing; and nothing, if they were not: but the parliament knew how to limit a particular favour, and prevent it from extending to a public miſchief. Henry the Eighth took an expeditious way of obviating part of the controverſies, that might ariſe from the multitude of his wives, by cutting off the heads of ſome, as ſoon as he was weary of them, or had a mind to take another; but having been hindered from dealing in the ſame manner with Catharine, by the greatneſs of her birth and kindred, he left

ſuch as the parliament only could reſolve. And no leſs power would ever have thought of making Mary and Elizabeth capable of the ſucceſſion, when, according to ordinary rules, one of them muſt have been a baſtard; and it had been abſurd to ſay, that both of them were, immediately upon the death of their predeceſſors, poſſeſſed of the crown, if an act of parliament had not conferred the right upon them, which they could not have by birth. But the kings and princes of England have not been of a temper different from thoſe of other nations: and many examples may be brought of the like occaſions of diſpute happening every-where; and the like will probably be for ever; which muſt neceſſarily introduce the moſt miſchievous confuſions, and expoſe the titles, which (as is pretended) are to be eſteemed moſt ſacred, to be overthrown by violence and fraud, if there be not in all places a power of deciding the controverſies that ariſe from the uncertainty of titles, according to the reſpective laws of every nation, upon which they are grounded: no man can be thought to have a juſt title, till it be ſo adjudged by that power: this judgment is the firſt ſtep to the throne: the oath taken by the king obliges him to obſerve the laws of his country; and that concerning the ſucceſſion being one of the principal, he is obliged to keep that part as well as any other. SECT. 19.

SECT. XIX.

The greateſt enemy of a juſt magiſtrate is he who endeavours to invalidate the contract between him and the people, or to corrupt their manners.

IT is not only from religion, but from the law of nature, that we learn the neceſſity of ſtanding to the agreements we make; and he who departs from the principle written in the hearts of men, "pactis ſtandum," ſeems to degenerate into a beaſt. Such as had virtue, tho' without true religion, could tell us (as a brave and excellent Grecian did), that it was not neceſſary for him to live, but it was neceſſary to preſerve his heart from deceit, and his tongue from falſhood. The Roman ſatiriſt carries the ſame notion to a great height, and affirms, that * "tho' the worſt of tyrants ſhould command a man "to be falſe and perjured, and back his injunction with the utmoſt of "torments, he ought to prefer his integrity before his life." And tho' Filmer may be excuſed if he often miſtake in matters of theology; yet his inclinations to Rome, which he prefers before Geneva, might have led him to the principles in which the honeſt Romans lived, if he had not obſerved, that ſuch principles as make men honeſt and generous, do alſo make them lovers of liberty, and conſtant in the

* ——Phalaris licet imperet, ut ſis
Falſus, & admoto dictet perjuria tauro,
Summum crede nefas animam præferre pudori. Juvenal.

defence

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defence of their country; which ſavouring too much of a republican ſpirit, he prefers the morals of that city, ſince they are become more refined by the pious and charitable Jeſuits, before thoſe that were remarkable in them, as long as they retained any ſhadow of their antient integrity, which admitted of no equivocations, and deteſted prevarications; by that means preſerving innocence in the hearts of private men, for their inward contentment, and in civil ſocieties, for the public good; which if once extinguiſhed, mankind muſt neceſſarily fall into the condition Hobbes rightly calls "bellum omnium contra "omnes," wherein no man can promiſe to himſelf any other wife, children, or goods, than he can procure by his own ſword.

Some may perhaps think, that the endeavours of our author to introduce ſuch accurſed principles, as tend to the ruin of mankind, proceed from his ignorance. But tho' he appears to have had a great meaſure of that quality, I fear the evil proceeds from a deeper root; and that he attempts to promote the intereſts of ill magiſtrates, who make it their buſineſs to deſtroy all good principles in the people, with as much induſtry as the good endeavour to preſerve them where they are, and teach them where they are wanting. Reaſon and experience inſtruct us, that every man acts according to the end he propoſes to himſelf. The good magiſtrate ſeeks the good of the people committed to his care, that he may perform the end of his inſtitution: and knowing that chiefly to conſiſt in juſtice and virtue, he endeavours to plant and propagate them; and by doing this he procures his own good as well as that of the public. He knows there is no ſafety where there is no ſtrength, no ſtrength without union, no union without juſtice; no juſtice where faith and truth, in accompliſhing public and private contracts, is wanting. This he perpetually inculcates, and thinks it a great part of his duty, by precept and example, to educate the youth in a love of virtue and truth, that they may be ſeaſoned with them, and filled with an abhorrence of vice and falſhood, before they attain that age which is expoſed to the moſt violent temptations, and in which they may, by their crimes, bring the greateſt miſchiefs upon the public. He would do all this, tho' it were to his own prejudice. But as good actions always carry a reward with them, theſe contribute in a high meaſure to his advantage. By preferring the intereſt of the people before his own, he gains their affection, and all that is in their power comes with it; whilſt he unites them to one another, he unites all to himſelf: in leading them to virtue, he increaſes their ſtrength, and by that means provides for his own ſafety, glory, and power.

On the other ſide, ſuch as ſeek different ends muſt take different ways. When a magiſtrate fanſies he is not made for the people, but the people for him; that he does not govern for them, but for himſelf; and that the people live only to increaſe his glory, or furniſh matter for his pleaſures; he does not inquire what he may do for them, but what he may draw from them. By this means he ſets up an intereſt of profit, pleaſure, or pomp, in himſelf, repugnant to the good of the public, for which he is made to be what he is. Theſe contrary ends certainly divide the nation into parties; and whilſt

every one endeavours to advance that to which he is addicted, occaſions of hatred for injuries every day done, or thought to be done, and received, muſt neceſſarily ariſe. This creates a moſt fierce and irreconcileable enmity, becauſe the occaſions are frequent, important, and univerſal, and the cauſes thought to be moſt juſt. The people think it the greateſt of all crimes, to convert that power to their hurt, which was inſtituted for their good; and that the injuſtice is aggravated by perjury and ingratitude, which comprehend all manner of ill; and the magiſtrate gives the name of ſedition or rebellion to whatſoever they do for the preſervation of themſelves, and their own rights. When mens ſpirits are thus prepared, a ſmall matter ſets them on fire; but if no accident happen to blow them into a flame, the courſe of juſtice is certainly interrupted, the public affairs are neglected; and when any occaſion, whether foreign or domeſtic, ariſes, in which the magiſtrate ſtands in need of the people's aſſiſtance, they, whoſe affections are alienated, not only ſhew an unwillingneſs to ſerve him with their perſons and eſtates, but fear that by delivering him from his diſtreſs, they ſtrengthen their enemy, and enable him to oppreſs them: and he, fanſying his will to be unjuſtly oppoſed, or his due more unjuſtly denied, is filled with a diſlike of what he ſees, and a fear of worſe for the future. Whilſt he endeavours to eaſe himſelf of the one, and to provide againſt the other, he uſually increaſes the evils of both, and jealouſies are on both ſides multiplied. Every man knows, that the governed are in a great meaſure under the power of the governor; but as no man, or number of men, is willingly ſubject to thoſe who ſeek their ruin, ſuch as fall into ſo great a misfortune, continue no longer under it than force, fear, or neceſſity, may be able to oblige them. But as ſuch a neceſſity can hardly lie longer upon a great people, than till the evil be fully diſcovered and comprehended, and their virtue, ſtrength, and power, be united to expel it; the ill magiſtrate looks upon all things, that may conduce to that end, as ſo many preparatives to his ruin; and by the help of thoſe, who are of his party, will endeavour to prevent that union, and diminiſh that ſtrength, virtue, power, and courage, which he knows to be bent againſt him. And as truth, faithful dealing, due performance of contracts, and integrity of manners, are bonds of union, and helps to good, he will always by tricks, artifices, cavils, and all means poſſible, endeavour to eſtabliſh falſhood and diſhoneſty; whilſt other emiſſaries and inſtruments of iniquity, by corrupting the youth, and ſeducing ſuch as can be brought to lewdneſs and debauchery, bring the people to ſuch a paſs, that they may neither care nor dare to vindicate their rights, and that thoſe who would do it, may ſo far ſuſpect each other, as not to confer upon, much leſs to join in, any action tending to the public deliverance. SECT. 19.

This diſtinguiſhes the good from the bad magiſtrate, the faithful from the unfaithful; and thoſe who adhere to either, living in the ſame principle, muſt walk in the ſame ways. They who uphold the rightful power of a juſt magiſtracy, encourage virtue and juſtice; teach men what they ought to do, ſuffer, or expect from others; fix them upon principles of honeſty; and generally advance every thing

CHAP. III. that tends to the increaſe of the valour, ſtrength, greatneſs, and happineſs of the nation, creating a good union among them, and bringing every man to an exact underſtanding of his own and the public rights. On the other ſide, he that would introduce an ill magiſtrate, make one evil who was good, or preſerve him in the exerciſe of injuſtice when he is corrupted, muſt always open the way for him by vitiating the people, corrupting their manners, deſtroying the validity of oaths and contracts, teaching ſuch evaſions, equivocations, and frauds, as are inconſiſtent with the thoughts, that become men of virtue and courage; and overthrowing the confidence they ought to have in each other, make it impoſſible for them to unite among themſelves. The like arts muſt be uſed with the magiſtrate: he cannot be for their turn, till he is perſuaded to believe he has no dependence upon, and owes no duty to the people; that he is of himſelf, and not by their inſtitution; that no man ought to inquire into, nor be judge of his actions; that all obedience is due to him, whether he be good or bad, wiſe or fooliſh, a father or an enemy to his country. This being calculated for his perſonal intereſt, he muſt purſue the ſame deſigns, or his kingdom is divided within itſelf, and cannot ſubſiſt. By this means thoſe who flatter his humour, come to be accounted his friends, and the only men that are thought worthy of great truſts, whilſt ſuch as are of another mind are expoſed to all perſecution. Theſe are always ſuch as excel in virtue, wiſdom, and greatneſs of ſpirit: they have eyes, and they will always ſee the way they go; and, leaving fools to be guided by implicit faith, will diſtinguiſh between good and evil, and chuſe that which is beſt; they will judge of men by their actions, and by them diſcovering whoſe ſervant every man is, know whether he is to be obeyed or not. Thoſe who are ignorant of all good, careleſs, or enemies to it, take a more compendious way; their ſlaviſh, vitious, and baſe natures, inclining them to ſeek only private and preſent advantages, they eaſily ſlide into a blind dependence upon one, who has wealth and power; and, deſiring only to know his will, care not what injuſtice they do, if they may be rewarded. They worſhip what they find in the temple, tho' it be the vileſt of idols; and always like that beſt which is worſt, becauſe it agrees with their inclinations and principles. When a party comes to be erected upon ſuch a foundation, debauchery, lewdneſs, and diſhoneſty, are the true badges of it. Such as wear them are cheriſhed; but the principal marks of favour are reſerved for thoſe, who are the moſt induſtrious in miſchief, either by ſeducing the people with the allurements of ſenſual pleaſures, or corrupting their underſtandings by falſe and ſlaviſh doctrines. By this means, a man who calls himſelf a philoſopher, or a divine, is often more uſeful than a great number of tapſters, cooks, buffoons, players, fidlers, whores, or bawds. Theſe are the devil's miniſters of a lower order; they ſeduce ſingle perſons; and ſuch as fall into their ſnares, are for the moſt part men of the ſimpler ſort: but the principal ſupporters of his kingdom are they, who by falſe doctrines poiſon the ſprings of religion and virtue, and by preaching or writing (if their falſhood and wickedneſs were not detected) would extinguiſh all principles of common honeſty, and bring whole nations to be beſt

ſatisfied

ſatisfied with themſelves, when their actions are moſt abominable. And as the means muſt always be ſuitable to the end propoſed, the governments that are to be eſtabliſhed or ſupported by ſuch ways muſt needs be the worſt of all, and comprehend all manner of evil. SECT. 20.

SECT. XX.

Unjuſt commands are not to be obeyed; and no man is obliged to ſuffer for not obeying ſuch as are againſt law.

IN the next place our author gravely propoſes a queſtion, "Whether "it be a ſin to diſobey the king, if he command any thing con- "trary to law?" and as gravely determines, "that not only in human "laws, but even in divine, a thing may be commanded contrary to "law, and yet obedience to ſuch a command is neceſſary. The "ſanctifying of the ſabbath is a divine law, yet if a maſter command "his ſervant not to go to church upon a ſabbath-day, the beſt divines "teach us, the ſervant muſt obey, &c. It is not fit to tie the maſter to "acquaint the ſervant with his ſecret counſel." Tho' he frequently contradicts in one line what he ſays in another, this whole clauſe is uniform, and ſuitable to the main deſign of his book. He ſets up the authority of man in oppoſition to the command of God, gives it the preference, and ſays, the beſt divines inſtruct us ſo to do. St. Paul then muſt have been one of the worſt, for he knew, that the powers under which he lived, had, under the ſevereſt penalties, forbidden the publication of the goſpel; and yet he ſays, "Woe to me if I "preach it not." St. Peter was no better than he, for he tells us, "That it is better to obey God than man:" and they could not ſpeak otherwiſe, unleſs they had forgotten the words of their Maſter, who told them, "They ſhould not fear them, that could only kill the "body, but him who could kill, and caſt into hell." And if I muſt not fear him, that can only kill the body, not only the reaſon, but all excuſe for obeying him, is taken away.

To prove what he ſays, he cites a pertinent example from St. Luke, Chap. xiv. and very logically concludes, that becauſe Chriſt reproved the hypocriſy of the Phariſees (who generally adhered to the external and circumſtantial part of the law, neglecting the eſſential, and taking upon themſelves to be the interpreters of that which they did not underſtand) the law of God is not to be obeyed: and as ſtrongly proves, that becauſe Chriſt ſhewed them, that the ſame law, which, by their own confeſſion, permitted them to pull an aſs out of a pit on the ſabbath-day, could not but give a liberty of healing the ſick, therefore the commands of kings are to be obeyed, though they ſhould be contrary to human and divine laws. But if perverſeneſs had not blinded him, he might have ſeen, that this very text is wholly againſt his purpoſe; for the magiſtratical power was on the ſide of the Phariſees, otherwiſe they would not have ſought an occaſion to enſnare him; and that power having perverted the law of God by falſe

CHAP. III.

falſe gloſſes, and a ſuperinduction of human traditions, prohibited the moſt neceſſary acts of charity to be done on the ſabbath-day, which Chriſt reproved, and reſtored the ſick man to his health in their ſight.

But I could wiſh our author had told us the names of thoſe divines, who, he ſays, are the beſt, and who pretend to teach us theſe fine things. I know ſome who are thought good, that are of a contrary opinion, and ſay, that God having required that day to be ſet apart for his ſervice and worſhip, man cannot diſpenſe with the obligation, unleſs he can abrogate the law of God. Perhaps, for want of other arguments to prove the contrary, I may be told, that this ſavours too much of puritaniſm and calviniſm. But I ſhall take the reproach, till ſome better patrons than Laud, and his creatures, may be found for the other opinion. By the advice and inſtigation of theſe men, from about the year 1630, to 1640, ſports and revelings, which ended, for the moſt part, in drunkenneſs and lewdneſs, were not only permitted on that day, but injoined. And tho' this did advance human authority in derogation to the divine, to a degree that may pleaſe ſuch as are of our author's mind; yet others, reſolving rather to obey the laws of God than the commands of men, could not be brought to paſs the Lord's day in that manner. Since that time no man, except Filmer and Heylin, has been ſo wicked to conceive, or ſo impudent to aſſert, ſuch brutal abſurdities. But leaving the farther conſideration of the original of this abuſe, I deſire to know, whether the authority given to maſters to command things contrary to the law of God, be peculiar in relation to the ſabbath, or to a few other points, or ought generally to extend to all God's laws; and whether he who may command his ſervant to act contrary to the law of God, have not a right in himſelf of doing the ſame. If peculiar, ſome authority or precept muſt be produced, by which it may appear, that God has ſlighted his ordinance concerning that day, and ſuffered it to be contemned, whilſt he exacts obedience to all others. If we have a liberty left to us of ſlighting others alſo, more or leſs in number, we ought to know how many, what they are, and how it comes to paſs, that ſome are of obligation, and others not. If the empire of the world is not only divided between God and Cæſar, but every man alſo who can give five pounds a year to a ſervant, has ſo great a part in it, that, in ſome caſes, his commands are to be obeyed preferably to thoſe of God, it were fit to know the limits of each kingdom, leſt we happen prepoſterouſly to obey man, when we ought to obey God, or God, when we are to follow the commands of men. If it be general, the law of God is of no effect, and we may ſafely put an end to all thoughts and diſcourſes of religion: the word of God is nothing to us; we are not to inquire what he has commanded, but what pleaſes our maſter, how inſolent, fooliſh, vile, or wicked, ſoever he may be. The apoſtles and prophets, who died for preferring the commands of God before thoſe of men, fell like fools, and periſhed in their ſins. But if every particular man that has a ſervant, can exempt him from the commands of God, he may alſo exempt himſelf, and the laws of God are at once abrogated throughout the world.

It is a folly to ſay there is a paſſive, as well as an active obedience, and that he who will not do what his maſter commands, ought to ſuffer the puniſhment he inflicts: for, if the maſter has a right of commanding, there is a duty incumbent on the ſervant of obeying. He that ſuffers for not doing that which he ought to do, draws upon himſelf both the guilt and the puniſhment. But no one can be obliged to ſuffer for that which he ought not to do, becauſe he who pretends to command, has not ſo far an authority. However, our queſtion is, whether the ſervant ſhould forbear to do that which God commands, rather than whether the maſter ſhould put away or beat him, if he do not: for if the ſervant ought to obey his maſter rather than God, as our author ſays the beſt divines aſſert, he ſins in diſobeying, and that guilt cannot be expiated by his ſuffering. If it be thought I carry this point to an undue extremity, the limits ought to be demonſtrated, by which it may appear that I exceed them, tho' the nature of the caſe cannot be altered: for if the law of God may not be abrogated by the commands of men, a ſervant cannot be exempted from keeping the ſabbath according to the ordinance of God, at the will of his maſter. But if a power be given to man at his pleaſure to annul the laws of God, the apoſtles ought not to have preached, when they were forbidden by the powers to which they were ſubject: the tortures and deaths they ſuffered for not obeying that command were in their own wrong, and their blood was upon their own heads. SECT. 20.

His ſecond inſtance concerning wars, in which he ſays the ſubject is not to examine whether they are juſt or unjuſt, but muſt obey, is weak and frivolous, and very often falſe; whereas conſequences can rightly be drawn from ſuch things only as are certainly and univerſally true. Tho' God may be merciful to a ſoldier, who by the wickedneſs of a magiſtrate, whom he honeſtly truſts, is made a miniſter of injuſtice, it is nothing to this caſe. For, if our author ſay true, that the word of a king can juſtify him in going againſt the command of God, he muſt do what is commanded, tho' he think it evil: the chriſtian ſoldiers under the pagan emperors were obliged to deſtroy their brethren, and the beſt men in the world, for being ſo: ſuch as now live under the Turk have the ſame obligation upon them of defending their maſter, and ſlaughtering thoſe he reputes his enemies for adhering to chriſtianity: and the king of France may, when he pleaſes, arm one part of his proteſtant ſubjects to the deſtruction of the other; which is a godly doctrine, and worthy our author's invention.

But, if this be ſo, I know not how the Iſraelites can be ſaid to have ſinned in following the examples of Jeroboam, Omri, Ahab, or other wicked kings: they could not have ſinned in obeying, if it had been a ſin to diſobey their commands; and God would not have puniſhed them ſo ſeverely, if they had not ſinned. It is impertinent to ſay they were obliged to ſerve their kings in unjuſt wars, but not to ſerve idols; for tho' God be jealous of his glory, yet he forbids rapine and murder as well as idolatry. If there be a law that forbids the ſubject to examine the commands tending to the one, it cannot but injoin obedience to the other. The ſame authority which juſtifies

murder, takes away the guilt of idolatry; and the wretches, both judges and witneſſes, who put Naboth to death, could as little alledge ignorance, as thoſe that worſhiped Jereboam's calves; the ſame light of nature by which they ſhould have known, that a ridiculous image was not to be adored as God, inſtructing them alſo, that an innocent man ought not, under pretence of law, to be murdered by perjury.

SECT. XXI.

It cannot be for the good of the people, that the magiſtrate have a power above the law: and he is not a magiſtrate, who has not his power by law.

THAT we may not be diſpleaſed, or think it dangerous and ſlaviſh to depend upon the will of a man, which perhaps may be irregular or extravagant in one who is ſubject to no law, our author very dexterouſly removes the ſcruples by telling us,

1. "That the prerogative of the king to be above the law, is only for "the good of them that are under the law, and to preſerve their liberties.

2. "That there can be no laws without a ſupreme power to command "or make them: in ariſtocracies the noblemen are above the law; in de-"mocracies the people: by the like reaſon, in a monarchy, the king muſt "of neceſſity be above the law. There can be no ſovereign majeſty in "him that is under the law: that which gives the very being to a king, is "the power to give laws. Without this power he is but an equivocal "king." It ſkills not how he comes by this power, whether by election, "donation, ſucceſſion, or any other means." I am contented in ſome degree to follow our author, and to acknowledge, that the king neither has, nor can have, any prerogative which is not for the good of the people, and the preſervation of their liberties. This therefore is the foundation of magiſtratical power, and the only way of diſcerning whether the prerogative of making laws, of being above laws, or any other he may pretend, be juſtly due to him or not: and if it be doubted who is the fitteſt judge to determine that queſtion, common ſenſe will inform us, that if the magiſtrate receive his power by election or donation, they who elect, or give him that power, beſt know whether the good they ſought be performed or not; if by ſucceſſion, they who inſtituted the ſucceſſion; if otherwiſe, that is, by fraud or violence, the point is decided; for he has no right at all, and none can be created by thoſe means. This might be ſaid, tho' all the princes were of ripe age, ſober, wiſe, juſt, and good; for even the beſt are ſubject to miſtakes and paſſions, and therfore unfit to be judges of their own concernments, in which they may by various means be miſguided: but it would be extreme madneſs to attribute the ſame to children, fools, or madmen, who are not able to judge of the leaſt things concerning themſelves or others; but moſt eſpecially to thoſe who, coming in by uſurpation, declare their contempt of all human

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and divine laws, and are enemies to the people they oppreſs. None therefore can be judges of ſuch caſes but the people, for whom and by whom the conſtitutions are made; or their repreſentatives and delegates, to whom they give the power of doing it. SECT. 21.

But nothing can be more abſurd than to ſay, that one man has an abſolute power above law to govern according to his will, "for the "people's good, and the preſervation of their liberty:" for no liberty can ſubſiſt where there is ſuch a power; and we have no other way of diſtinguiſhing between free nations, and ſuch as are not ſo, than that the free are governed by their own laws and magiſtrates, according to their own mind, and that the others either have willingly ſubjected themſelves, or are by force brought under the power of one or more men, to be ruled according to his or their pleaſure. The ſame diſtinction holds in relation to particular perſons. He is a free man who lives as beſt pleaſes himſelf, under laws made by his own conſent; and the name of ſlave can belong to no man, unleſs to him who is either born in the houſe of a maſter, bought, taken, ſubdued, or willingly gives his ear to be nailed to the poſt, and ſubjects himſelf to the will of another. Thus were the Grecians ſaid to be free, in oppoſition to the Medes and Perſians, as Artabanus acknowledged in his diſcourſe to Themiſtocles. In the ſame manner the Italians, Germans, and Spaniards, were diſtinguiſhed from the eaſtern nations, who, for the moſt part, were under the power of tyrants. Rome was ſaid to have recovered liberty by the expulſion of the Tarquins; or as Tacitus expreſſes it, "* Lucius Brutus eſtabliſhed liberty "and the conſulate together," as if before that time they had never enjoyed any; and Julius Cæſar is ſaid to have overthrown the liberty of that people. But if Filmer deſerve credit, the Romans were free under Tarquin, enſlaved when he was driven away, and his prerogative extinguiſhed, that was ſo neceſſarily required for the defence of their liberty; and were never reſtored to it, till Cæſar aſſumed all the power to himſelf. By the ſame rule the Switzers, Griſons, Venetians, Hollanders, and ſome other nations, are now ſlaves; and Tuſcany, the kingdom of Naples, the eccleſiaſtical ſtate, with ſuch as live under a more gentle maſter on the other ſide of the water, I mean the Turk, are free nations. Nay, the Florentines, who complain of ſlavery under the houſe of Medices, were made free by the power of a Spaniſh army, who ſet up a prerogative in that gentle family, which for their good has deſtroyed all that could juſtly be called ſo in that country, and almoſt wholly diſpeopled it. I, who eſteem myſelf free, becauſe I depend upon the will of no man, and hope to die in the liberty I inherit from my anceſtors, am a ſlave; and the Moors or Turks, who may be beaten and killed whenever it pleaſes their inſolent maſters, are free men. But ſurely the world is not ſo much miſtaken in the ſignification of words and things. The weight of chains, number of ſtripes, hardneſs of labour, and other effects of a maſter's cruelty, may make one ſervitude more miſerable than another: but he is a ſlave who ſerves the beſt and gentleſt man in the world, as well as he who ſerves the worſt; and he does

Plut. vit. Themiſt.

* Libertatem & conſulatum L. Brutus inſtituit. An. l. i.

CHAP. III. Claudian.

does ſerve him, if he muſt obey his commands, and depends upon his will. For this reaſon the poet ingeniouſly flattering a good emperor, ſaid, that liberty was not more deſirable, than to ſerve a gentle maſter; but ſtill acknowledged, that it was a ſervice, diſtinct from, and contrary to liberty: and it had not been a handſome complement, unleſs the evil of ſervitude were ſo extreme, that nothing but the virtue and goodneſs of the maſter could any way compenſate or alleviate it. Now, tho' it ſhould be granted, that he had ſpoken more like to a philoſopher than a poet; that we might take his words in the ſtricteſt ſenſe, and think it poſſible to find ſuch conveniences in a ſubjection to the will of a good and wiſe maſter, as may balance the loſs of liberty, it would be nothing to the queſtion; becauſe that liberty is thereby acknowledged to be deſtroyed by the prerogative, which is only inſtituted to preſerve it. If it were true, that no liberty were to be preferred before the ſervice of a good maſter, it could be of no uſe to the periſhing world, which Filmer, and his diſciples, would, by ſuch arguments, bring into a ſubjection to children, fools, mad, or vicious men. Theſe are not caſes feigned upon a diſtant imaginary poſſibility, but ſo frequently found amongſt men, that there are few examples of the contrary. And as it is folly to ſuppoſe, that princes will always be wiſe, juſt, and good, when we know, that few have been able alone to bear the weight of a government, or to reſiſt the temptations to ill, that accompany an unlimited power, it would be madneſs to preſume they will for the future be free from infirmities and vices. And if they be not, the nations under them will not be in ſuch a condition of ſervitude to a good maſter as the poet compares to liberty, but in a miſerable and ſhameful ſubjection to the will of thoſe who know not how to govern themſelves, or to do good to others: Tho' Moſes, Joſhua, and Samuel, had been able to bear the weight of an unreſtrained power: tho' David and Solomon had never abuſed that which they had; what effect could this have upon a general propoſition? Where are the families that always produce ſuch as they were? When did God promiſe to aſſiſt all thoſe who ſhould attain to the ſovereign power, as he did them whom he choſe for the works he deſigned? Or what teſtimony can Filmer give us, that he has been preſent with all thoſe who have hitherto reigned in the world? But if we know, that no ſuch thing either is, or has been; and can find no promiſe to aſſure us, nor reaſon to hope, that it ever will be, it is as fooliſh to found the hopes of preſerving a people upon that which never was, or is ſo likely to fail, nay rather which in a ſhort time moſt certainly will fail, as to root up vines and fig-trees, in expectation of gathering grapes and figs from thiſtles and briars. This would be no leſs than to extinguiſh the light of common ſenſe, to neglect the means that God has given us to provide for our ſecurity, and to impute to him a diſpoſition of things utterly inconſiſtent with his wiſdom and goodneſs. If he has not therefore ordered, that thorns and thiſtles ſhould produce figs and grapes, nor that the moſt important works in the world, which are not without the utmoſt difficulty, if at all, to be performed by the beſt and wiſeſt of men, ſhould be put into the hands of the weakeſt, moſt fooliſh, and worſt, he cannot have ordained, that ſuch men, women, or children, as

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happen to be born in reigning families, or get the power into their hands, by fraud, treachery, or murder (as very many have done), ſhould have a right of diſpoſing all things according to their will. And if men cannot be guilty of ſo great an abſurdity to truſt the weakeſt and worſt with a power which uſually ſubverts the wiſdom and virtue of the beſt; or to expect ſuch effects of virtue and wiſdom from thoſe who come by chance, as can hardly, if at all, be hoped from the moſt excellent, our author's propoſition can neither be grounded upon the ordinance of God, nor the inſtitution of man. Nay, if any ſuch thing had been eſtabliſhed by our firſt parents in their ſimplicity, the utter impoſſibility of attaining what they expected from it, muſt wholly have abrogated the eſtabliſhment: or rather, it had been void from the beginning, becauſe it was not "* a juſt ſanction, commanding things good, and forbidding the contrary," but a fooliſh and perverſe ſanction, ſetting up the unruly appetite of one perſon to the ſubverſion of all that is good in the world, by making the wiſdom of the aged and experienced to depend upon the will of women, children, and fools; by ſending the ſtrong and the brave to ſeek protection from the moſt weak and cowardly, and ſubjecting the moſt virtuous and beſt of men to be deſtroyed by the moſt wicked and vicious. Theſe being the effects of that unlimited prerogative, which, our author ſays, was only inſtituted for the good and defence of the people, it muſt neceſſarily fall to the ground, unleſs ſlavery, miſery, infamy, deſtruction, and deſolation, tend to the preſervation of liberty, and are to be preferred before ſtrength, glory, plenty, ſecurity, and happineſs. The ſtate of the Roman empire after the uſurpation of Cæſar will ſet this matter in the cleareſt light; but having done it already in the former parts of this work, I content myſelf to refer to thoſe places. And tho' the calamities they ſuffered were a little allayed and moderated by the virtues of Antoninus and M. Aurelius, with one or two more, yet "we have no example" of the continuance of them in a family, nor "of any nation, great or ſmall, that "has been under an abſolute power, which does not too plainly "manifeſt, that no man, or ſucceſſion of men, is to be truſted with it."

SECT. 21.

But, ſays our author, "there can be no law where there is not a "ſupreme power;" and from thence very ſtrongly concludes it muſt be in the king; for "otherwiſe there can be no ſovereign majeſty in "him, and he is but an equivocal king." This might have been of ſome force, if governments were eſtabliſhed, and laws made, only to advance that ſovereign majeſty; but nothing at all to the purpoſe, if (as he confeſſes) the power which the prince has, be given for the good of the people, and for the defence of every private man's life, liberty, lands, and goods; for that which is inſtituted, cannot be abrogated for want of that which was never intended in the inſtitution. If the public ſafety be provided, liberty and propriety ſecured, juſtice adminiſtred, virtue encouraged, vice ſuppreſſed, and the true intereſt of the nation advanced, the ends of government are accompliſhed; and the higheſt muſt be contented with ſuch a proportion of glory and majeſty as is conſiſtent with the public; ſince the magiſtracy is not inſtituted, nor any perſon placed in it, for the increaſe of his majeſty,

* Sanctio recta, jubens honeſta, prohibens contraria. Cicer.

CHAP. III. but for the preſervation of the whole people, and the defence of the liberty, life, and eſtate, of every private man, as our author himſelf is forced to acknowledge.

But what is this ſovereign majeſty, ſo inſeparable from royalty, that one cannot ſubſiſt without the other? Caligula placed it in a power of * doing what he pleaſed to all men: Nimrod, Nabuchodonoſor, and others, with an impious and barbarous inſolence boaſted of the greatneſs of their power. They thought it a glorious privilege to kill or ſpare whom they pleaſed. But ſuch kings as by God's permiſſion might have been ſet up over his people, were to have nothing
Deut. xvii. of this. They were not to multiply gold, ſilver, wives, or horſes; they were not to govern by their own will, but according to the law; from which they might not recede, nor raiſe their hearts above their brethren. Here were kings without that unlimited power, which makes up the ſovereign majeſty, that Filmer affirms to be ſo eſſential to kings, that without it they are only equivocal; which proving nothing but the incurable perverſeneſs of his judgment, the malice of his heart, or malignity of his fate, always to oppoſe reaſon and truth, we are to eſteem thoſe to be kings who are deſcribed to be ſo by the Scriptures, and to give another name to thoſe who endeavour to advance their own glory, contrary to the precept of God, and the intereſt of mankind.

But unleſs the light of reaſon had been extinguiſhed in him, he might have ſeen, that tho' no law could be made without a ſupreme power, that ſupremacy may be in a body conſiſting of many men, and ſeveral orders of men. If it be true, which perhaps may be doubted, that there have been in the world ſimple monarchies, ariſtocracies, or democracies, legally eſtabliſhed, it is certain, that the moſt part of the governments of the world (and I think all that are or have been good) were mixed. Part of the power has been conferred upon the king, or the magiſtrate that repreſented him, and part upon the ſenate and people, as has been proved in relation to the governments of the Hebrews, Spartans, Romans, Venetians, Germans, and all thoſe who live under that which is uſually called the Gothic polity. If the ſingle perſon participating of this divided power diſlike either the name he bears, or the authority he has, he may renounce it; but no reaſon can be from thence drawn to the prejudice of nations, who give ſo much as they think conſiſtent with their own good, and reſerve the reſt to themſelves, or to ſuch other officers as they pleaſe to eſtabliſh.

No man will deny, that ſeveral nations have had a right of giving power to conſuls, dictators, archons, ſuffetes, dukes, and other magiſtrates, in ſuch proportions as ſeemed moſt conducing to their own good; and there muſt be a right in every nation of allotting to kings ſo much as they pleaſe, as well as to the others, unleſs there be a charm in the word king, or in the letters that compoſe it. But this cannot be; for there is no ſimilitude between "king," "rex," and "baſileus:" they muſt therefore have a right of regulating the power of kings, as well as that of conſuls or dictators; and it had not been more

* Omnia mihi in omnes licere. Sueton.

more ridiculous in Fabius, Scipio, Camillus, or Cincinnatus, to aſſert an abſolute power in himſelf, under pretence of advancing his ſovereign majeſty againſt the law, than for any king to do the like. But as all nations give what form they pleaſe to their government, they are alſo judges of the name to be impoſed upon each man who is to have a part in the power: and it is as lawful for us to call him king, who has a limited authority amongſt us, as for the Medes or Arabs to give the ſame name to one who is more abſolute. If this be not admitted, we are content to ſpeak improperly; but utterly deny, that when we give the name, we give any thing more than we pleaſe; and had rather his majeſty ſhould change his name than to renounce our own rights and liberties, which he is to preſerve, and which we have received from God and nature. SECT. 21.

But that the folly and wickedneſs of our author may not be capable of any farther aggravation, he ſays, "That it ſkills not how he "come by the power." Violence therefore, or fraud, treachery or murder, are as good as election, donation, or legal ſucceſſion. It is in vain to examine the laws of God or man; the rights of nature; whether children do inherit the dignities and magiſtracies of their fathers, as patrimonial lands and goods; whether regard ought to be had to the fitneſs of the perſon; whether all ſhould go to one, or be divided amongſt them; or by what rule we may know who is the right heir to the ſucceſſion, and conſequently, what we are in conſcience obliged to do. Our author tells us in ſhort, it matters not how he that has the power comes by it.

It has been hitherto thought, that to kill a king (eſpecially a good king) was a moſt abominable action. They who did it, were thought to be incited by the worſt of paſſions that can enter into the hearts of men; and the ſevereſt puniſhments have been invented to deter them from ſuch attempts, or to avenge their death upon thoſe who ſhould accompliſh it: but, if our author may be credited, it muſt be the moſt commendable and glorious act that can be performed by man: for, beſides the outward advantages that men ſo earneſtly deſire, he that does it, is preſently inveſted with the ſovereign majeſty, and at the ſame time becomes God's vicegerent, and the father of his country, poſſeſſed of that government, which, in excluſion to all other forms, is only favoured by the laws of God and nature. The only inconvenience is, that all depends upon ſucceſs, and he that is to be the miniſter of God, and father of his country, if he ſucceed, is the worſt of all villains, if he fail; and, at the beſt, may be deprived of all by the ſame means he employed to gain it. Tho' a prince ſhould have the wiſdom and virtues of Moſes, the valour of Joſhua, David, and the Maccabees, with the gentleneſs and integrity of Samuel, the moſt fooliſh, vitious, baſe, and deteſtable man in the world that kills him, and ſeizes the power, becomes his heir, and father of the people that he governed; it ſkills not how he did it, whether in open battle, or by ſecret treachery, in the field, or in the bed, by poiſon, or by the ſword: the vileſt ſlave in Iſrael had become the Lord's anointed, if he could have killed David or Solomon, and found villains to place him in the throne. If this be right, the world has to this day lived in darkneſs, and the actions which have been thought

thought to be the moſt deteſtable, are the moſt commendable and glorious. But not troubling myſelf at preſent to decide this queſtion, I leave it to kings to conſider how much they are beholden to Filmer, and his diſciples, who ſet ſuch a price upon their heads, as would render it hard to preſerve their lives one day, if the doctrines were received which they endeavour to infuſe into the minds of the people; and concluding this point, only ſay, that we in England know no other king than he who is ſo by law, nor any power in that king except that which he has by law: and tho' the Roman empire was held by the power of the ſword; and Ulpian, a corrupt lawyer, undertakes to ſay, that "the prince is not obliged by the laws;" yet Theodoſius confeſſed, that it was the glory of a good emperor to acknowledge himſelf bound by them.

SECT. XXII.

The rigour of the law is to be tempered by men of known integrity and judgment, and not by the prince, who may be ignorant or vicious.

OUR author's next ſhift is to place the king above the law, that he may mitigate the rigour of it, without which, he ſays, "the caſe of the ſubject would be deſperately miſerable." But this cure would prove worſe than the diſeaſe. Such pious fathers of the people as Caligula, Nero, or Domitian, were not like to mitigate the rigour; nor ſuch as inherit crowns in their infancy (as the preſent kings of Spain, France, and Sweden) ſo well to underſtand the meaning of it as to decide extraordinary caſes. The wiſdom of nations has provided more aſſured helps; and none could have been ſo brutiſh and negligent of the public concernments, to ſuffer the ſucceſſion to fall to women, children, &c. if they had not reſerved a power in themſelves to prefer others before the neareſt in blood, if reaſon require; and preſcribed ſuch rules as might preſerve the public from ruin, notwithſtanding their infirmities and vices. Theſe helps provided by our laws, are principally by grand and petit juries, who are not only judges of matters of fact, as whether a man be killed, but whether he be killed criminally. Theſe men are upon their oaths, and may be indicted of perjury if they prevaricate: the judges are preſent, not only to be a check upon them, but to explain ſuch points of the law as may ſeem difficult. And tho' theſe judges may be ſaid in ſome ſenſe to be choſen by the king, he is not underſtood to do it otherwiſe than by the advice of his council, who cannot perform their duty, unleſs they propoſe ſuch as in their conſciences they think moſt worthy of the office, and moſt capable of performing the duty rightly; nor he accompliſh the oath of his coronation, unleſs he admit thoſe, who upon deliberation ſeem to be the beſt. The judges being thus choſen, are ſo far from depending upon the will of the king, that they ſwear faithfully to ſerve the people as well as the king, and to do juſtice to every man according to the law of the land,

18 Edw. III. cap. 1.

land notwithſtanding any writs, letters, or commands received from him; and in default thereof they are to forfeit their bodies, lands, and goods, as in caſes of treaſon. Theſe laws have been ſo often, and ſo ſeverely executed, that it concerns all judges well to conſider them; and the caſes of Treſilian, Empſon, Dudley, and others, ſhew, that neither the king's preceding command, nor ſubſequent pardon, could preſerve them from the puniſhment they deſerved. All men knew, that what they did was agreeable to the king's pleaſure; for Treſilian advanced the prerogative of Edward the IId, and Empſon brought great treaſures into the coffers of Henry the VIIth. Nevertheleſs they were charged with treaſon for ſubverting the laws of the land, and executed as traitors. Tho' England ought never to forget the happy reign of Q. Elizabeth, yet it muſt be acknowledged, that ſhe as well as others had her failings. She was full of love to the people, juſt in her nature, ſincere in her intentions; but could not ſo perfectly diſcover the ſnares that were laid for her, or reſiſt the importunity of the perſons ſhe moſt truſted, as not ſometimes to be brought to attempt things againſt law. She and her counſellors preſſed the judges very hardly to obey the patent under her great ſeal, in the caſe of Cavendiſh: but they anſwered, "That both ſhe and they "had taken an oath to keep the law; and, if they ſhould obey her "commands, the law would not warrant them, &c." And beſides the offence againſt God, their country, and the commonwealth, they alledged the example of Empſon and Dudley, "whereby," they ſaid, "they were "deterred from obeying her illegal commands." They who had ſworn to keep the law notwithſtanding the king's writs, knew that the law depended not upon his will; and the ſame oath that obliged them not to regard any command they ſhould receive from him, ſhewed that they were not to expect indemnity by it, and not only that the king had neither the power of making, altering, mitigating, or interpreting the law, but that he was not at all to be heard, in general or particular matters, otherwiſe than as he ſpeaks in the common courſe of juſtice, by the courts legally eſtabliſhed, which ſay the ſame thing, whether he be young or old, ignorant or wiſe, wicked or good: and nothing does better evidence the wiſdom and care of our anceſtors, in framing the laws and government we live under, than that the people did not ſuffer extremities by the vices or infirmities of kings, till an age more full of malice than thoſe in which they lived, had found tricks to pervert the rule, and fruſtrate their honeſt intentions. It was not ſafe for the kings to violate their oaths by an undue interpoſition of their authority; but the miniſters who ſerved them in thoſe violations, have ſeldom eſcaped puniſhment. This is to be underſtood when the deviations from juſtice are extreme and miſchievous, for ſomething muſt always be allowed to human frailty: the beſt have their defects, and none could ſtand, if a too exact ſcrutiny were made of all their actions. Edward the Third, about the twentieth year of his reign, acknowledged his own in parliament, and as well for the eaſe of his conſcience, as the ſatisfaction of his people, promoted an act, "commanding all judges to do juſtice, notwithſtanding any "writs, letters, or commands from himſelf, and forbidding thoſe that "belonged to the king, queen, and prince, to intermeddle in thoſe

Sect. 22.

Anderſon's Rep. p. 155.

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" matters." But if the beſt and wiſeſt of our princes, in the ſtrength and maturity of their years, had their failings, and every act proceeding from them, that tended to the interruption of juſtice, was a failing, how can it be ſaid, that the king in his perſonal capacity, directly or indirectly, may enter into a diſcuſſion of theſe matters, much leſs to determine them according to his will?

" But," ſays our author, " the law is no better than a tyrant; ge-
" neral pardons at the coronation, and in parliament, are but the bounty
" of the prerogative, &c. There may be hard caſes;" and, citing ſome perverted pieces from Ariſtotle's ethics and politics, adds, " That when
" ſomething falls out beſides the general rule, then it is fit, that what
" the lawmaker hath omitted, or where he hath erred by ſpeaking
" generally, it ſhould be corrected and ſupplied, as if the lawmaker
" were preſent that ordained it. The governor, whether he be one
" man or more, ought to be lord of theſe things, whereof it was im-
" poſſible that the law ſhould ſpeak exactly." Theſe things are in part true; but our author makes uſe of them as the devil does of Scripture, to ſubvert the truth. There may be ſomething of rigour in the law, that in ſome caſes may be mitigated; and the law itſelf (in relation to England) does ſo far acknowledge it, as to refer much to the conſciences of juries, and thoſe who are appointed to aſſiſt them; and the moſt difficult caſes are referred to the parliament as the only judges that are able to determine them. Thus the ſtatute of the 35th Edw. III. enumerating the crimes then declared to be treaſon, leaves to future parliaments to judge what other facts equivalent to them may deſerve the ſame puniſhment: and it is a general rule in the law, which the judges are ſworn to obſerve, that difficult caſes ſhould be reſerved till the parliament meet, who are only able to decide them: and if there be any inconvenience in this, it is becauſe they do not meet ſo frequently as the law requires, or by ſiniſter means are interrupted in their ſitting. But nothing can be more abſurd than to ſay, that becauſe the king does not call parliaments as the law and his oath requires, that power ſhould accrue to him, which the law and the conſent of the nation has placed in them.

There is alſo ſuch a thing in the law, as a general or particular pardon, and the king may in ſome degree be entruſted with the power of giving it, eſpecially for ſuch crimes as merely relate to himſelf, as every man may remit the injuries done to himſelf; but the
14 Edw. III. 15. confeſſion of Edward the Third, " That the oath of the crown had not
" been kept by reaſon of the grant of pardons contrary to ſtatutes," and a new act made, " that all ſuch charters of pardon from hence-
" forth granted againſt the oath of the crown, and the ſaid ſtatutes, ſhould
" be held for none," demonſtrate that this power was not in himſelf, but granted by the nation, and to be executed according to ſuch rules as the law preſcribed, and the parliament approved.

Moreover, there have been many, and ſometimes bloody conteſts for the crown, upon which the nation was almoſt equally divided; and it being difficult for them to know, or even for us who have all the parties before us, to judge which was the better ſide, it was underſtood, that he who came to be crowned by the conſent of the people, was acceptable to all: and the queſtion being determined, it was no way

fit

fit that he ſhould have a liberty to make uſe of the public authority then in his hands, to revenge ſuch perſonal injuries as he had, or might ſuppoſe to have received, which might raiſe new, and perhaps more dangerous troubles, if the authors of them were ſtill kept in fear of being proſecuted; and nothing could be more unreaſonable, than that he ſhould employ his power to the deſtruction of thoſe who had conſented to make him king. This made it a matter of courſe for a king, as ſoon as he was crowned, to iſſue out a general pardon; which was no more than to declare, that being now what he was not before, he had no enemy upon any former account. For this reaſon Lewis the Twelfth of France, when he was incited to revenge himſelf againſt thoſe, who, in the reign of his predeceſſor Charles the Eighth, had cauſed him to be impriſoned, with great danger of his life, made this anſwer, "That the king of France did not care to "revenge the injuries done to the duke of Orleans:" and the laſt king of Sweden ſeemed no otherwiſe to remember who had oppoſed the queen's abdication, and his election, than by conferring honours upon them; becauſe he knew they were the beſt men of the nation, and ſuch as would be his friends, when they ſhould ſee how he would govern, in which he was not deceived. But, leſt all thoſe who might come to the crown of England, ſhould not have the ſame prudence and generoſity, the kings were obliged by a cuſtom of no leſs force than a law, immediately to put an end to all diſputes, and the inconveniences that might ariſe from them. This did not proceed from the bounty of the prerogative (which I think is nonſenſe, for tho' he that enjoys the prerogative may have bounty, the prerogative can have none), but from common ſenſe, from his obligation, and the care of his own ſafety; and could have no other effect in law, than what related to his perſon, as appears by the forementioned ſtatute. SECT. 22.

Pardons granted by act of parliament are of another nature: for as the king, who has no other power than by law, can no otherwiſe diſpenſe with the crimes committed againſt the laws, than the law does enable him; the parliament, that has the power of making laws, may intirely aboliſh the crimes, and unqueſtionably remit the puniſhment as they pleaſe.

Tho' ſome words of Ariſtotle's ethics are without any coherence ſhuffled together by our author, with others taken out of his politics, I do not much except againſt them. No law made by man can be perfect, and there muſt be in every nation a power of correcting ſuch defects as in time may ariſe or be diſcovered. This power can never be ſo rightly placed as "in the ſame hand that has the right "of making laws, whether in one perſon or in many." If Filmer therefore can tell us of a place, where one man, woman, or child, however he or ſhe be qualified, has the power of making laws, I will acknowledge, that not only the "hard caſes," but as many others as he pleaſes, are referred to his or her judgment, and that they may give it, whether they have any underſtanding of what they do or not, whether they be drunk or ſober, in their ſenſes, or ſtark-mad. But as I know no ſuch place, and ſhould not be much concerned for the ſufferings of a people that ſhould bring ſuch miſery upon themſelves, as muſt accompany an abſolute dependence upon the unruly will of ſuch

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ſuch a creature, I may leave him to ſeek it, and reſt in a perfect aſſurance, that he does not ſpeak of England, which acknowledges no other law than its own; and inſtead of receiving any from kings, does, to this day, obey none, but ſuch as have been made by our anceſtors, or ourſelves, and never admitted any king that did not ſwear to obſerve them. And if Ariſtotle deſerve credit, the power of altering, mitigating, explaining, or correcting, the laws of England, is only in the parliament, becauſe none but the parliament can make them.

SECT. XXIII.

Ariſtotle proves, that no man is to be entruſted with an abſolute power, by ſhewing, that no one knows how to execute it, but ſuch a man as is not to be found.

OUR author having falſly cited and perverted the ſenſe of Ariſtotle, now brings him in ſaying, "That a perfect kingdom is "that wherein the king rules all according to his own will." But tho' I have read his books of government with ſome attention, I can find no ſuch thing in them, unleſs the word which ſignifies "mere" or "abſolute" may be juſtly tranſlated into "perfect;" which is ſo far from Ariſtotle's meaning, that he diſtinguiſhes the abſolute or deſpotical kingdoms from the legitimate; and commending the latter, gives no better name than that of "barbarous" to the firſt, which he ſays can agree only with the nature of ſuch nations as are baſe and ſtupid, little differing from beaſts; and having no ſkill to govern, or courage to defend themſelves, muſt reſign all to the will of one that will take care of them. Yet even this cannot be done, unleſs he that ſhould take that care be wholly exempted from the vices which oblige the others to ſtand in need of it; for otherwiſe it is no better than if a ſheep ſhould undertake to govern ſheep, or a hog to command ſwine; Ariſtotle plainly ſaying, "That as men are by nature equal, if it "were poſſible, all ſhould be magiſtrates." But that being repugnant to the nature of government, he finds no other way of ſolving the difficulty, than by "obeying and commanding alternately;" that they may do by turns that which they cannot do all together, and to which no one man has more right than an other, becauſe they are all by nature equal. This might be compoſed by a more compendious way, if, according to our author's doctrine, poſſeſſion could give a right. But Ariſtotle, ſpeaking like a philoſopher, and not like a public enemy of mankind, examines what is juſt, reaſonable, and beneficial to men, that is, what ought to be done, and which being done, is to be accounted juſt, and therefore to be ſupported by good men. But as * "that which is unjuſt in the beginning, can never

Ariſt. pol. l. ii. c. 1.

* Quod ab initio injuſtum eſt, nullum poteſt habere juris effectum. Grot. de jur. bel. & pac. l. iii.

"have

" have the effect of juſtice ;" and it being manifeſtly unjuſt for one, or a few men, to aſſume a power over thoſe who by nature are equal to them, no ſuch power can be juſt or beneficial to mankind ; nor fit to be upheld by good men, if it be unjuſt and prejudicial. In the opinion of Ariſtotle, this natural equality continues till virtue makes the diſtinction, which muſt be either ſimply complete and perfect in itſelf, ſo that he who is endued with it, is a God among men, or relatively, as far as concerns civil ſociety, and the ends for which it is conſtituted, that is, defence, and the obtaining of juſtice. This requires a mind unbiaſſed by paſſion, full of goodneſs and wiſdom, firm againſt all the temptations to ill, that may ariſe from deſire or fear ; tending to all manner of good, through a perfect knowledge and affection to it ; and this to ſuch a degree, that he or they have more of theſe virtues and excellencies than all the reſt of the ſociety, tho' computed together : where ſuch a man is found, he is by nature a king, and it is beſt for the nation where he is that he govern. If a few men, tho' equal and alike among themſelves, have the ſame advantages above the reſt of the people, nature, for the ſame reaſon, ſeems to eſtabliſh an ariſtocracy in that place ; and the power is more ſafely committed to them, than left in the hands of the multitude. But if this excellency of virtue do not appear in one, nor in a few men, the right and power is by nature equally lodged in all ; and to aſſume or appropriate that power to one, or a few men, is unnatural and tyrannical, which, in Ariſtotle's language, comprehends all that is deteſtable and abominable.

SECT. 23.

Ariſt. pol. l. ii.

If any man ſhould think Ariſtotle a trifler, for ſpeaking of ſuch a man as can never be found, I anſwer, that he went as far as his way could be warranted by reaſon or nature, and was obliged to ſtop there by the defect of his ſubject. He could not ſay, that the government of one was ſimply good, when he knew ſo many qualifications were required in the perſon to make it ſo ; nor, that it is good for a nation to be under the power of a fool, a coward, or a villain, becauſe it is good to be under a man of admirable wiſdom, valour, induſtry, and goodneſs ; or that the government of one ſhould be continued in ſuch as by chance ſucceed in a family, becauſe it was given to the firſt who had all the virtues required, tho' all the reaſons for which the power was given fail in the ſucceſſor ; much leſs could he ſay, that any government was good, which was not good for thoſe whoſe good only it was conſtituted to promote.

Barbeyrac trad. de Puf. liv. vii. 5. not. 1.

Moreover, by ſhewing who only is fit to be a monarch, or may be made ſuch, without violating the laws of nature and juſtice, he ſhews who cannot be one : and he who ſays, that no ſuch man is to be found, as, according to the opinion of Ariſtotle, can be a monarch, does moſt ridiculouſly alledge his authority in favour of monarchs, or the power which ſome amongſt us would attribute to them. If any thing therefore may be concluded from his words, it is this ; that ſince no power ought to be admitted which is not juſt ; that none can be juſt which is not good, profitable to the people, and conducing to the ends for which it is conſtituted ; that no man can know how to direct the power to thoſe ends, can deſerve, or adminiſter it, unleſs he do ſo far excel all thoſe that are under him in wiſdom,

CHAP. III. juſtice, valour, and goodneſs, as to poſſeſs more of thoſe virtues than all of them; I ſay, if no ſuch man, or ſucceſſion of men, be found, no ſuch power is to be granted to any man, or ſucceſſion of men. But if ſuch power be granted, the laws of nature and reaſon are overthrown, and the ends for which ſocieties are conſtituted, utterly perverted, which neceſſarily implies an annihilation of the grant. And if a grant, ſo made by thoſe who have a right of ſetting up a government among themſelves, do periſh through its own natural iniquity and perverſity, I leave it to any man, whoſe underſtanding and manners are not ſo intirely corrupted as thoſe of our author, to determine what name ought to be given to that perſon, who, not excelling all others in civil and moral virtues, in the proportion required by Ariſtotle, does uſurp a power over a nation, and what obedience the people owe to ſuch a one. But if his opinion deſerve our regard, the king, by having thoſe virtues, is "omnium optimus," and the beſt guide to the people, "* to lead them to happineſs by "the ways of virtue." And he who aſſumes the ſame power, without the qualifications required, is "tyrannus omnium peſſimus," leading the people to all manner of ill, and, in conſequence, to deſtruction.

SECT. XXIV.

The power of Auguſtus Cæſar was not given, but uſurped.

OUR author's next inſtance is ingeniouſly taken from the Romans, "who," he ſays, "tho' they were a people greedy of liberty, "freed Auguſtus from the neceſſity of laws." If it be true, as he affirms, that ſuch a prerogative is inſtituted only for the preſervation of liberty, they who are moſt greedy of it, ought to be moſt forward in eſtabliſhing that which defends it beſt. But if the weight laid upon the words "greedy of liberty, &c." render his memory and judgment liable to cenſure, the unpardonable prevarication of citing any act done by the Romans in the time of Auguſtus, as done freely, ſhews him to be a man of no faith. "Omnium jura in ſe traxerat," ſays Annal. l. i. Tacitus of Auguſtus; nothing was conferred upon him, he took all to himſelf; there could be nothing of right in that which was wholly uſurped. And neither the people or the ſenate could do any thing freely, whilſt they were under the power of a mad corrupted ſoldiery, who firſt betrayed, and then ſubdued them. The greateſt part of the ſenate had fallen at the battle of Pharſalia, others had been gleaned up in ſeveral places, the reſt deſtroyed by the proſcriptions; and that which then retained the name of a ſenate, was made up chiefly of thoſe who had been his miniſters, in bringing the moſt miſerable ſlavery upon their own country. The Roman liberty, and that bravery of ſpirit by which it had been maintained, was not only aboliſhed, but almoſt forgotten. All conſideration of law and right was

* Ad ſummum bonum ſecundum virtutem. Ariſt. pol.

was trampled under foot; and none could diſpute with him, who by the power of the ſword had ſeized the authority both of the ſenate and people. Nothing was ſo extravagant, that might not be extorted by the inſolent violence of a conqueror, who had thirty mercenary legions to execute his commands. The uncorrupted part of the people, that had eſcaped the ſword of Julius, had either periſhed with Hirtius and Panſa, Brutus and Caſſius, or been deſtroyed by the deteſtable triumvirate. Thoſe that remained could loſe nothing by a verbal reſignation of their liberty, which they had neither ſtrength nor courage to defend. The magiſtracies were poſſeſſed by the creatures of the tyrant; and the people was compoſed of ſuch as were either born under ſlavery, and accuſtomed to obey, or remained under the terror of thoſe arms that had conſumed the aſſertors of their liberty. Our author, ſtanding in need of ſome Roman example, was obliged to ſeek it in an age, when the laws were ſubverted, virtue extinguiſhed, injuſtice placed in the throne, and ſuch as would not be of the ſame ſpirit, expoſed to the utmoſt cruelty. This was the time when the ſovereign majeſty ſhined in glory; and they who had raiſed it above the law, made it alſo the object of their religion, by adoring the ſtatues of their oppreſſor. The corruption of this court ſpread itſelf over the beſt part of the world; and reduced the empire to that irrecoverable weakneſs in which it languiſhed and periſhed. This is the ſtate of things that pleaſes Filmer, and thoſe that are like him, who, for the introduction of the ſame among us, recommend ſuch an elevation of the ſovereign majeſty, as is moſt contrary to the laws of God and men, abhorred by all generous nations, and moſt eſpecially by our anceſtors, who thought nothing too dear to be hazarded in the defence of themſelves and us from it. SECT. 25.

SECT. XXV.

The regal power was not the firſt in this nation; nor neceſſarily to be continued, tho' it had been the firſt.

TRUTH being uniform in itſelf, thoſe who deſire to propagate it for the good of mankind, lay the foundations of their reaſonings in ſuch principles, as are either evident to common ſenſe, or eaſily proved: but cheats and impoſtors, delighting in obſcurity, ſuppoſe things that are dubious or falſe, and think to build one falſhood upon another; and our author can find no better way to perſuade us, that all our privileges and laws are from the king, than by ſaying, "that "the firſt power was the kingly power, which was both in this and "all other nations in the world, long before any laws, or any other "kind of government, were thought of; from whence we muſt "neceſſarily infer, that the common law, or common cuſtoms of "this land, were originally the laws and commands of the king." But denying both theſe points, I affirm,

1. Firſt,

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1. Firſt, that there was a power to make kings before there was any king.

2. Tho' kings had been the firſt created magiſtrates in all places (as perhaps they were in ſome), it does not follow, that they muſt continue for ever, or that laws are from them.

To the firſt; I think no man will deny, that there was a people at Babylon, before Nimrod was king of that place. This people had a power; for no number of men can be without it: nay this people had a power of making Nimrod king, or he could never have been king. He could not be king by ſucceſſion, for the Scripture ſhews him to have been the firſt. He was not king by the right of father, for he was not their father, Chuſh, Cham, with his elder brothers, and father Noah, being ſtill living; and, which is worſt of all, were not kings: for if they who lived in Nimrod's time, or before him, neither were kings, nor had kings, he that ought to have been king over all by the right of nature (if there had been any ſuch thing in nature), was not king. Thoſe who immediately ſucceeded him, and muſt have inherited his right, if he had any, did not inherit, or pretend to it: and therefore he that ſhall now claim a right from nature, as father of a people, muſt ground it upon ſomething more certain than Noah's right of reigning over his children, or it can have no ſtrength in it.

Moreover, the nations who in and before the time of Nimrod had no kings, had power, or elſe they could have performed no act, nor conſtituted any other magiſtrate, to this day, which is abſurd. There was therefore a power in nations before there were kings, or there could never have been any; and Nimrod could never have been king, if the people of Babylon had not made him king, which they could not have done if they had not a power of making him ſo. It is ridiculous to ſay he made himſelf king, for tho' he might be ſtrong and valiant, he could not be ſtronger than a multitude of men. That which forces muſt be ſtronger than that which is forced; and if it be true, according to the antient ſaying, that Hercules himſelf is not ſufficient to encounter two, it is ſure more impoſſible for one man to force a multitude, for that muſt be ſtronger than he. If he came in by perſuaſion, they who were perſuaded, were perſuaded to conſent, that he ſhould be king. That conſent therefore made him king. But, "qui dat eſſe, dat modum eſſe:" they who made him king, made him ſuch a king as beſt pleaſed themſelves. He had therefore nothing but what was given: his greatneſs and power muſt be from the multitude who gave it: and their laws and liberties could not be from him; but their liberties were naturally inherent in themſelves, and their laws were the product of them.

There was a people that made Romulus king. He did not make or beget that people, nor, for any thing we know, one man of them. He could not come in by inheritance, for he was a baſtard, the ſon of an unknown man; and when he died, the right that had been conferred upon him reverted to the people, who, according to that right, choſe Numa, Hoſtilius, Martius, Tarquinius Priſcus, and Servius, all ſtrangers, and without any other right than what was beſtowed upon them;

them: and Tarquinius Superbus, who invaded the throne "* without "the command of the people," was ejected, and the government of kings aboliſht, by the ſame power that had created it. SECT. 23.

We know not certainly by what law Moſes, and the judges, created by the advice of Jethro, governed the Iſraelites; but may probably conjecture it to have been by that law which God had written in the hearts of mankind; and the people ſubmitted to the judgment of good and wiſe men, tho' they were under no coercive power: but it is certain they had a law, and a regular magiſtracy, under which they lived, four hundred years before they had a king, for Saul was the firſt. This law was not therefore from the king, nor by the king; but the king was choſen and made by the people, according to the liberty they had by the law, tho' they did not rightly follow the rules therein preſcribed, and by that means brought deſtruction upon themſelves.

The country in which we live lay long concealed under obſcure barbarity, and we know nothing of the firſt inhabitants, but what is involved in fables, that leave us ſtill in the dark. Julius Cæſar is the firſt who ſpeaks diſtinctly of our affairs, and gives us no reaſon to believe there was any monarchy then eſtabliſhed amongſt us. Caſſivellaunus was occaſionally choſen by the nations that were moſt expoſed to the violence of the Romans, for the management of thoſe wars againſt them. By others we hear of Boadicia, Arviragus, Galgacus, and many more ſet up afterwards, when need required; but we find no footſteps of a regular ſucceſſion either by inheritance or election. And as they had then no kings, or any other general magiſtrate, that can be ſaid to be equivalent to a king, they might have had none at all unleſs they had thought fit. Tacitus mentions a ſort of kings, uſed by the Romans to keep † nations in ſervitude to them; and tho' it were true, that there had been ſuch a man as Lucius, and he one of this ſort, he is to be accounted only as a Roman magiſtrate, and ſignifies no more to our diſpute, than if he had been called proconſul, prætor, or by any other name. However there was no ſeries of them: that which was temporary and occaſional, depended upon the will of thoſe, who, thinking there was occaſion, created ſuch a magiſtrate, and omitted to do ſo, when the occaſion ceaſed, or was thought to ceaſe; and might have had none at all, if they had ſo pleaſed. The magiſtracy therefore was from them, and depended upon their will. Jul. Cæſ. Comment. l. v.

We have already mentioned the hiſtories of the Saxons, Danes, and Normans, from which nations, together with the Britains, we are deſcended, and, finding that they were ſevere aſſertors of their liberties, acknowledged no human laws but their own, received no kings, but ſuch as ſwore to obſerve them, and depoſed thoſe who did not well perform their oaths and duty, it is evident, that their kings were made by the people according to the law; and that the law, by which they became what they were, could not be from themſelves.

* Sine juſſu populi. T. Liv. l. i.

† Inter inſtrumenta ſervitutis reges habuere. C. Tacit.

CHAP. III. Our anceſtors were ſo fully convinced, that in the creation of kings they exerciſed their own right, and were only to conſider what was good for themſelves, that without regard to the memory of thoſe who had gone before, they were accuſtomed to take ſuch as ſeemed moſt like, wiſely, juſtly and gently to perform their office; refuſed thoſe that were ſuſpected of pride, cruelty, or any other vice that might bring prejudice upon the public, what title ſoever they pretended; and removed ſuch as had been placed in the throne, if they did not anſwer the opinion conceived of their virtue; which I take to be a manner of proceeding that agrees better with the quality of maſters, making laws and magiſtrates for themſelves, than of ſlaves receiving ſuch as were impoſed upon them.

2. To the ſecond. Tho' it ſhould be granted, that all nations had at the firſt been governed by kings, it were nothing to the queſtion; for no man, or number of men, was ever obliged to continue in the errors of his predeceſſors. The authority of cuſtom, as well as of law (I mean in relation to the power that made it to be), conſiſts only in its rectitude: and the ſame reaſon which may have induced one or more nations to create kings, when they knew no other form of government, may not only induce them to ſet up another, if that be found inconvenient to them, but proves, that they may as juſtly do ſo, as remove a man who performs not what was expected from him. If there had been a rule given by God, and written in the minds of men by nature, it muſt have been from the beginning, univerſal and perpetual; or at leaſt muſt have been obſerved by the wiſeſt and beſt inſtructed nations: which not being in any meaſure (as I have proved already), there can be no reaſon, why a polite people ſhould not relinquiſh the errors committed by their anceſtors in the time of their barbariſm and ignorance, and why they ſhould not do it in matters of government, as well as in any other thing relating to life. Men are ſubject to errors, and it is the work of the beſt and wiſeſt to diſcover and amend ſuch as their anceſtors may have committed, or to add perfection to thoſe things which by them have been well invented. This is ſo certain, that whatſoever we enjoy beyond the miſery in which our barbarous anceſtors lived, is due only to the liberty of correcting what was amiſs in their practice, or inventing that which they did not know: and I doubt whether it be more brutiſh to ſay, we are obliged to continue in the idolatry of the druids, with all the miſeries and follies that accompany the moſt ſavage barbarity, or to confeſs, that tho' we have a right to depart from theſe, yet we are for ever bound to continue the government they had eſtabliſhed, whatever inconveniences might attend it. Tertullian, diſputing with the pagans, who objected the novelty of the chriſtian religion, troubled not himſelf with refuting that error; * but proving chriſtianity to be good and true, he thought he had ſufficiently proved it to be antient. A wiſe architect may ſhew his ſkill, and deſerve commendation for building a poor houſe of vile materials, when he can procure no better, but he no way ought to hinder others from erecting

* Nullum tempus, nulla præſcriptio, occurrit veritati. Tertul. Id antiquius quod verius. Ibid.

more

more glorious fabrics if they are furniſhed with the means required. Sect. 23.
Beſides, ſuch is the imperfection of all human conſtitutions, that they are ſubject to perpetual fluctuation, which never permits them to continue long in the ſame condition: corruptions ſlide in inſenſibly; and the beſt orders are ſometimes ſubverted by malice and violence; ſo that he who only regards what was done in ſuch an age, often takes the corruption of the ſtate for the inſtitution, follows the worſt example, thinks that to be the firſt, that is the moſt antient he knows; and if a brave people, ſeeing the original defects of their government, or the corruption into which it may be fallen, do either correct and reform what may be amended, or aboliſh that which was evil in the inſtitution, or ſo perverted, that it cannot be reſtored to integrity, theſe men impute it to ſedition, and blame thoſe actions, which, of all that can be performed by men, are the moſt glorious. We are not therefore ſo much to inquire after that which is moſt antient, as that which is beſt, and moſt conducing to the good ends to which it was directed. As governments were inſtituted for the obtaining of juſtice, and (as our author ſays) the preſervation of liberty, we are not to ſeek what government was the firſt, but what beſt provides for the obtaining of juſtice, and preſervation of liberty. For whatſoever the inſtitution be, and how long ſoever it may have laſted, it is void, if it thwarts, or do not provide for the ends of its eſtabliſhment. If ſuch a law or cuſtom therefore as is not good in itſelf, had in the beginning prevailed in all parts of the world (which in relation to abſolute, or any kind of monarchy, is not true), it ought to be aboliſhed; and if any man ſhould ſhew himſelf wiſer than others by propoſing a law or government, more beneficial to mankind than any that had been formerly known, providing better for juſtice and liberty than all others had done, he would merit the higheſt veneration. If any man aſk, who ſhall be judge of that rectitude or pravity which either authorizes or deſtroys a law? I anſwer, that as this conſiſts not in formalities and niceties, but in evident and ſubſtantial truths, there is no need of any other tribunal than that of common ſenſe, and the light of nature, to determine the matter: and he that travels through France, Italy, Turky, Germany, and Switzerland, without conſulting Bartolus or Baldus, will eaſily underſtand whether the countries that are under the kings of France and Spain, the pope and the great Turk, or ſuch as are under the care of a well-regulated magiſtracy, do beſt enjoy the benefits of juſtice and liberty. It is as eaſily determined, whether the Grecians, when Athens and Thebes flouriſhed, were more free than the Medes; whether juſtice was better adminiſtred by Agathocles, Dionyſius, and Phalaris, than by the legal kings and regular magiſtrates of Sparta; or whether more care was taken, that juſtice and liberty might be preſerved by Tiberius, Caligula, Claudius, Nero, and Vitellius, than by the ſenate and people of Rome, whilſt the laws were more powerful than the commands of men. The like may be ſaid of particular laws, as thoſe of Nabuchodonoſor and Caligula, for worſhiping their ſtatues; our acts of parliament againſt heretics and Lollards, with the ſtatutes and orders of the inquiſition, which is called the holy office. And if that only be a law which is "ſanctio recta, jubens honeſta, prohibens contraria," the

CHAP. III. the meaneſt underſtanding, if free from paſſion, may certainly know, that ſuch as theſe cannot be laws, by what authority ſoever they were enacted, and that the uſe of them, and others like to them, ought to be aboliſhed for their turpitude and iniquity. Infinite examples of the like nature might be alledged, as well concerning divine as human things. And if there be any laws which are evil, there cannot be an inconteſtable rectitude in all, and if not in all, it concerns us to examine where it is to be found. Laws and conſtitutions ought to be weighed, and whilſt all due reverence is paid to ſuch as are good, every nation may not only retain in itſelf a power of changing or aboliſhing all ſuch as are not ſo, but ought to exerciſe that power according to the beſt of their underſtanding, and in the place of what was either at firſt miſtaken or afterwards corrupted, to conſtitute that which is moſt conducing to the eſtabliſhment of juſtice and liberty.

But ſuch is the condition of mankind, that nothing can be ſo perfectly framed as not to give ſome teſtimony of human imbecillity, and frequently to ſtand in need of reparations and amendments. Many things are unknown to the wiſeſt, and the beſt men can never wholly deveſt themſelves of paſſions and affections. By this means the beſt and wiſeſt are ſometimes led into error, and ſtand in need of ſucceſſors like to themſelves, who may find remedies for the faults they have committed, and nothing can or ought to be permanent but that which is perfect. No natural body was ever ſo well tempered and organized, as not to be ſubject to diſeaſes, wounds, or other accidents, and to need medicines, and other occaſional helps, as well as nouriſhment and exerciſe, and he who, under the name of innovation, would deprive nations of the like, does, as much as lies in him, condemn them all to periſh by the defects of their own foundations. Some men obſerving this, have propoſed a neceſſity of reducing every ſtate, once in an age or two, to the integrity of its firſt principle: but they ought to have examined, whether that principle be good or evil, or ſo good, that nothing can be added to it, which none ever was; and this being ſo, thoſe who will admit of no change would render errors perpetual, and depriving mankind of the benefits of wiſdom, induſtry, experience, and the right uſe of reaſon, oblige all to continue in the miſerable barbarity of their anceſtors, which ſuits better with the name of a wolf than that of a man.

Diſcorſ. di Macchiav. lib. ii.

Thoſe who are of better underſtanding, weigh all things, and often find reaſon to abrogate that which their fathers, according to the meaſure of the knowledge they had, or the ſtate of things among them, had rightly inſtituted, or to reſtore that which they had abrogated; and there can be no greater mark of a moſt brutiſh ſtupidity, than for men to continue in an evil way, becauſe their fathers had brought them into it. But if we ought not too ſtrictly to adhere to our own conſtitutions, thoſe of other nations are leſs to be regarded by us; for the laws that may be good for one people are not for all, and that which agrees with the manners of one age, is utterly abhorrent from thoſe of another. It were abſurd to think of reſtoring the laws of Lycurgus to the preſent inhabitants of Peloponneſus, who are accuſtomed to the moſt abject ſlavery. It may eaſily be imagined,

imagined, how the Romans, Sabines, and Latins, now under the tyranny of the pope, would reliſh ſuch a diſcipline as flouriſhed among them after the expulſion of the Tarquins; and it had been no leſs prepoſterous to give a liberty to the Parthians of governing themſelves, or for them to aſſume it, than to impoſe an abſolute monarch upon the German nation. Titus Livius, having obſerved this, ſays, that if a popular government had been ſet up in Rome immediately upon the building of the city; and if that fierce people, which was compoſed of unruly ſhepherds, herdſmen, fugitive ſlaves, and outlawed perſons, who could not ſuffer the governments under which they were born, had come to be incited by * turbulent orators, they would have brought all into confuſion: whereas that boiſterous humour being gradually tempered by diſcipline under Romulus, or taught to vent its fury againſt foreign enemies, and ſoftened by the peaceable reign of Numa, a new race grew up, which, being all of one blood, contracted a love to their country, and became capable of liberty, which the madneſs of their laſt king, and the lewdneſs of his ſon, gave them occaſion to reſume. If this was commendable in them, it muſt be ſo in other nations. If the Germans might preſerve their liberty, as well as the Parthians ſubmit themſelves to abſolute monarchy, it is as lawful for the deſcendents of thoſe Germans to continue in it, as for the eaſtern nations to be ſlaves: If one nation may juſtly chuſe the government that ſeems beſt to them, and continue or alter it according to the changes of times and things, the ſame right muſt belong to others. The great variety of laws that are or have been in the world, proceeds from this; and nothing can better ſhew the wiſdom and virtue, or the vices and folly of nations, than the uſe they make of this right: they have been glorious or infamous, powerful or deſpicable, happy or miſerable, as they have well or ill executed it.

SECT. 25.

Hiſt. l. ii. c. 1.

* tribuniciis procellis.

If it be ſaid, that the law given by God to the Hebrews, proceeding from his wiſdom and goodneſs, muſt needs be perfect and obligatory to all nations; I anſwer, that there is a ſimple and a relative perfection: the firſt is only in God, the other in the things he has created: "He ſaw that they were good;" which can ſignify no more than that they were good in their kind, and ſuited to the end for which he deſigned them. For if the perfection were abſolute, there could be no difference between an angel and a worm, and nothing could be ſubject to change or death; for that is imperfection. This relative perfection is ſeen alſo by his law given to mankind in the perſons of Adam and Noah. It was good in the kind, fit for thoſe times; but could never have been enlarged or altered, if the perfection had been ſimple; and no better evidence can be given to ſhew, that it was not ſo, than that God did afterwards give one much more full and explicit to his people. This law alſo was peculiarly applicable to that people and ſeaſon; for, if it had been otherwiſe, the apoſtles would have obliged chriſtians to the intire obſervation of it, as well as to abſtain from idolatry, fornication, and blood. But if all this be not ſo, then their judicial law, and the form of their commonwealth, muſt be received by all; no human law can be of any value; we are all brethren; no man has a prerogative above another; lands muſt

Gen. i.

CHAP. III.

be equally divided amongſt all; inheritances cannot be alienated for above fifty years; no man can be raiſed above the reſt, unleſs he be called by God, and enabled by his Spirit to conduct the people; when this man dies, he that has the ſame Spirit muſt ſucceed, as Joſhua did to Moſes, and his children can have no title to his office: when ſuch a man appears, a ſanhedrin of ſeventy men, choſen out of the whole people, are to judge ſuch cauſes as relate to themſelves, whilſt thoſe of greater extent and importance are referred to the general aſſemblies. Here is no mention of a king; and conſequently, if we muſt take this law for our pattern, we cannot have one: if the point be driven to the utmoſt, and the precept of Deuteronomy, where God permitted them to have a king, if they thought fit, when they came into the promiſed land, be underſtood to extend to all nations, every one of them muſt have the ſame liberty of taking their own time, chuſing him in their own way, dividing the kingdom, having no king, and ſetting up other governors when they pleaſe, as before the election of Saul, and after the return from the captivity: and even when they have a king, he muſt be ſuch a one as is deſcribed in the ſame chapter, who no more reſembles the ſovereign majeſty that our author adores, and agrees as little with his maxims, as a tribune of the Roman people.

We may therefore conclude, that if we are to follow the law of Moſes, we muſt take it with all the appendages; a king can be no more, and no otherwiſe, than he makes him: for whatever we read of the kings they had, were extreme deviations from it. No nation can make any law; and our lawyers, burning their books, may betake themſelves to the ſtudy of the pentateuch; in which tho' ſome of them may be well verſed, yet probably the profit ariſing from thence will not be very great.

But, if we are not obliged to live in a conformity to the law of Moſes, every people may frame laws for themſelves, and we cannot be denied the right that is common to all. Our laws were not ſent from heaven, but made by our anceſtors according to the light they had, and their preſent occaſions. We inherit the ſame right from them, and, as we may without vanity ſay, that we know a little more than they did, if we find ourſelves prejudiced by any law that they made, we may repeal it. The ſafety of the people was their ſupreme law, and is ſo to us: neither can we be thought leſs fit to judge what conduces to that end, than they were. If they in any age had been perſuaded to put themſelves under the power, or, in our author's phraſe, under the ſovereign majeſty, of a child, a fool, a mad or deſperately wicked perſon, and had annexed the right conferred upon him, to ſuch as ſhould ſucceed, it had not been a "juſt and "right ſanction;" and, having none of the qualities eſſentially belonging to a law, could not have the effect of a law. It cannot be for the good of a people to be governed by one, who by nature ought to be governed, or by age or accident is rendered unable to govern himſelf. The public intereſts, and the concernments of private men in their lands, goods, liberties, and lives (for the preſervation of which, our author ſays, that regal prerogative is only conſtituted), cannot be preſerved by one who is tranſported by his own paſſions or follies, a

ſlave

ſlave to his luſts and vices; or, which is ſometimes worſe, governed by the vileſt of men and women, who flatter him in them, and puſh him on to do ſuch things as even they would abhor, if they were in his place. The turpitude and impious madneſs of ſuch an act muſt neceſſarily make it void, by overthrowing the ends for which it was made, ſince that juſtice which was ſought cannot be obtained, nor the evils that were feared, prevented; and they for whoſe good it was intended muſt neceſſarily have a right of aboliſhing it. This might be ſufficient for us, tho' our anceſtors had enſlaved themſelves. But, God be thanked, we are not put to that trouble: we have no reaſon to believe we are deſcended from ſuch fools and beaſts, as would willingly caſt themſelves, and us, into ſuch an exceſs of miſery and ſhame, or that they were ſo tame and cowardly to be ſubjected by force or fear. We know the value they ſet upon their liberties, and the courage with which they defended them: and we can have no better example to encourage us never to ſuffer them to be violated or diminiſhed. SECT. 26

SECT. XXVI.

Tho' the king may be entruſted with the power of chuſing judges, yet that by which they act is from the law.

I Confeſs, that no law can be ſo perfect, "to provide exactly for "every caſe that may fall out, ſo as to leave nothing to the diſ-"cretion of the judges," who in ſome meaſure are to interpret them: but "that laws or cuſtoms are ever few, or that the paucity is the "reaſon that they cannot give ſpecial rules, or that judges do reſort "to thoſe principles, or common-law axioms, whereupon former "judgments, in caſes ſomething alike, have been given by former "judges, who all receive their authority from the king in his right to "give ſentence," I utterly deny; and affirm,

1. That in many places, and particularly in England, the laws are ſo many, that the number of them has introduced an uncertainty and confuſion, which is both dangerous and troubleſome; and the infinite variety of adjudged caſes, thwarting and contradicting each other, has rendered theſe difficulties inextricable. Tacitus imputes a great part of the miſeries ſuffered by the Romans in his time to this abuſe, and tells us, that "* the laws grew to be innumerable in the worſt and "moſt corrupt ſtate of things," and that juſtice was overthrown by them. By the ſame means in France, Italy, and other places, where the civil law is rendered municipal, judgments are in a manner arbitrary; and tho' the intention of our laws be juſt and good, they are ſo numerous, and the volumes of our ſtatutes, with the interpretations, and adjudged caſes, ſo vaſt, that hardly any thing is ſo clear and fixed, but men of wit and learning may find what will ſerve for a pretence to

* Et in corruptiſſima republica plurimæ leges.

to juſtify almoſt any judgment they have a mind to give. Whereas the laws of Moſes, as to the judicial part, being ſhort and few, judgments were eaſy and certain; and in Switzerland, Sweden, and ſome parts of Denmark, the whole volume that contains them may be read in few hours, and by that means no injuſtice can be done which is not immediately made evident.

2. Axioms are not rightly grounded upon judged caſes; but caſes are to be judged according to axioms: the certain is not proved by the uncertain, but the uncertain by the certain; and every thing is to be eſteemed uncertain, till it be proved to be certain. Axioms in law are, as in mathematics, evident to common ſenſe; and nothing is to be taken for an axiom, that is not ſo. Euclid does not prove his axioms by his propoſitions, but his propoſitions, which are abſtruſe, by ſuch axioms as are evident to all. The axioms of our law do not receive their authority from Coke or Hales, but Coke and Hales deſerve praiſe for giving judgment according to ſuch as are undeniably true.

3. The judges receive their commiſſions from the king; and perhaps it may be ſaid, that the cuſtom of naming them is grounded upon a right with which he is intruſted; but their power is from the law, as that of the king alſo is. For he who has none originally in himſelf, can give none, unleſs it be firſt conferred upon him. I know not how he can well perform his oath to govern according to law, unleſs he execute the power with which he is intruſted, in naming thoſe men to be judges, whom in his conſcience, and by the advice of his council, he thinks the beſt and ableſt to perform that office: but both he and they are to learn their duty from that law, by which they are, and which allots to every one his proper work. As the law intends, that men ſhould be made judges for their integrity and knowledge in the law, and that it ought not to be imagined, that the king will break his truſt by chuſing ſuch as are not ſo, till the violation be evident, nothing is more reaſonable than to intend, that the judges ſo qualified ſhould inſtruct the king in matters of law. But that he who may be a child, over-aged, or otherwiſe ignorant and uncapable, ſhould inſtruct the judges, is equally abſurd, as for a blind man to be a guide to thoſe who have the beſt eyes, and ſo abhorrent from the meaning of the law, that the judges (as I ſaid before) are ſworn to do juſtice according to the laws, without any regard to the king's words, letters, or commands: if they are therefore to act according to a ſet rule, from which they may not depart, what command ſoever they receive, they do not act by a power from him, but by one that is above both. This is commonly confeſſed; and tho' ſome judges have been found in ſeveral ages, who, in hopes of reward and preferment, have made little account of their oath, yet the ſucceſs that many of them have had, may reaſonably deter others from following their example; and if there are not more inſtances in this kind, no better reaſon can be given, than that * nations do frequently fail, by being too remiſs in aſſerting their own rights, or puniſhing offenders, and hardly ever err on the ſeverer ſide.

* Jure igitur plectimur; niſi enim multorum impunita ſcelera tuliſſemus, nunquam ad unum tanta perveniſſet licentia. Cicero.

4. Judgments are variouſly given in ſeveral ſtates and kingdoms; but he who would find one where they lie in the breaſt of the king, muſt go at leaſt as far as Morocco. Nay, the ambaſſador who was lately here from that place, denied that they were abſolutely in him. However, it is certain, that in England, according to the great charter, "* judgments are paſſed by equals:" no man can be impriſoned, diſſeiſed of his freehold, deprived of life or limb, "† unleſs by the "ſentence of his peers." The kings of Judah did "‖ judge and were "judged;" and the judgments they gave, were in and with the ſanhedrim. In England the kings do not judge, but are judged: and Bracton ſays, "‖‖ that in receiving juſtice the king is equal to another "man;" which could not be, if judgments were given by him, and he were exempted from the judgment of all by that law, which has put all judgments into the hands of the people. This power is executed by them in grand or petty juries, and the judges are aſſiſtants to them, in explaining the difficult points of the law, in which, it is preſumed, they ſhould be learned. The ſtrength of every judgment conſiſts in the verdict of theſe juries, which the judges do not give, but pronounce or declare: and the ſame law that makes good a verdict given contrary to the advice or direction of the judges, expoſes them to the utmoſt penalties, if, upon their own heads, or a command from the king, they ſhould preſume to give a ſentence, without or contrary to a verdict; and no pretenſions to a power of interpreting the law can exempt them, if they break it. The power alſo, with which the judges are entruſted, is but of a moderate extent, and to be executed "bona fide." Prevarications are capital, as they proved to Treſilian, Empſon, Dudley, and many others. Nay, even in ſpecial verdicts, the judges are only aſſiſtants to the juries, who find it ſpecially, and the verdict is from them, tho' the judges, having heard the point argued, declare the ſenſe of the law thereupon. Wherefore, if I ſhould grant, that the king might perſonally aſſiſt in judgments, his work could only be to prevent frauds, and, by the advice of the judges, to ſee that the laws be duly executed, or perhaps to inſpect their behaviour. If he has more than this, it muſt be by virtue of his politic capacity, in which, he is underſtood to be always preſent in the principal courts, where juſtice is always done, whether he who wears the crown, be young or old, wiſe or ignorant, good or bad, or whether he like or diſlike what is done. SECT. 26.

Moreover, as governments are inſtituted for the obtaining of juſtice, and the king is in a great meaſure entruſted with the power of executing it, it is probable that the law would have required his preſence in the diſtribution, if there had been but one court; that at the ſame time he could be preſent in more than one; that it were certain he would be guilty of no miſcarriages; that all miſcarriages were to be puniſhed in him, as well as in the judges; or that it were certain he ſhould always be a man of ſuch wiſdom, induſtry, experience, and

* Judicia fiunt per pares. Mag. chart.
† Niſi per judicium parium ſuorum. Ibid.
‖ Judicabant & judicabantur. Maimonid.
‖‖ In juſtitia recipienda rex cuilibet ex plebe æqualis eſt.

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integrity, as to be an aſſiſtance to, and a watch over, thoſe who are appointed for the adminiſtration of juſtice. But there being many courts ſitting at the ſame time, of equal authority, in ſeveral places far diſtant from each other; impoſſible for the king to be preſent in all; no manner of aſſurance that the ſame, or greater miſcarriages may not be committed in his preſence than in his abſence, by himſelf than others; no opportunity of puniſhing every delict in him, without bringing the nation into ſuch diſorder, as may be of more prejudice to the public, than an injury done to a private man; the law, which intends to obviate offences, or to puniſh ſuch as cannot be obviated, has directed, that thoſe men ſhould be choſen, who are moſt knowing in it; impoſes an oath upon them, not to be diverted from the due courſe of juſtice, by fear or favour, hopes or reward, particularly by any command from the king; and appoints the ſevereſt puniſhments for them, if they prove falſe to God, and their country.

If any man think, that the words cited from Bracton by our author upon the queſtion, "Quis primo & principaliter poſſit & debeat judicare, &c. Sciendum eſt quod rex, & non alius, ſi ſolus ad hæc ſufficere poſſit, cum ad hoc per virtutem ſacramenti teneatur," are contrary to what I have ſaid, I deſire the context may be conſidered, that his opinion may be truly underſtood, tho' the words, taken ſimply and nakedly, may be enough for my purpoſe. For it is ridiculous to infer, that the king has a right of doing any thing, upon a ſuppoſition, that it is impoſſible for him to do it. He therefore, who ſays the king cannot do it, ſays it muſt be done by others, or not at all. But, having already proved, that the king, merely as king, has none of the qualities required for judging all, or any caſes; and that many kings have all the defects of age and perſon, that render men moſt unable and unfit to give any ſentence; we may conclude, without contradicting Bracton, that no king, as king, has a power of judging, becauſe ſome of them are utterly unable and unfit to do it; and if any one has ſuch a power, it muſt be conferred upon him by thoſe who think him able and fit to perform that work. When Filmer finds ſuch a man, we muſt inquire into the extent of that power which is given to him: but this would be nothing to his general propoſition; for he himſelf would hardly have inferred, that becauſe a power of judging in ſome caſes was conferred upon one prince, on account of his fitneſs and ability, therefore all of them, however unfit and unable, have a power of deciding all caſes. Beſides, if he believe Bracton, this power of judging is not inherent in the king, but incumbent upon him, by virtue of his oath, which our author endeavours to enervate and annul. But as that oath is grounded upon the law, and the law cannot preſume impoſſibilities and abſurdities, it cannot intend, and the oath cannot require, that a man ſhould do that, which he is unable and unfit to do. Many kings are unfit to judge cauſes: the law cannot therefore intend they ſhould do it. The context alſo ſhews, that this imagination of the king's judging all cauſes, if he could, is merely chimerical: for Bracton ſays, in the ſame chapter, that "the power of the king is the power of the law;" that is, that he has no power but by the law. And the law that aims at juſtice, cannot make it to depend

depend upon the uncertain humour of a child, a woman, or a fooliſh man; for by that means it would deſtroy itſelf. The law cannot therefore give any ſuch power, and the king cannot have it. SECT. 26.

If it be ſaid, that all kings are not ſo; that ſome are of mature age, wiſe, juſt, and good; or, that the queſtion is, not what is good for the ſubject, but what is glorious to the king; and that he muſt not loſe his right, tho' the people periſh; I anſwer, firſt, that whatſoever belongs to kings as kings, belongs to all kings: this power of judging cannot belong to all, for the reaſons above-mentioned: it cannot therefore belong to any, as king, nor, without madneſs, be granted to any, till he has given teſtimony of ſuch wiſdom, experience, diligence, and goodneſs, as is required for ſo great a work. It imports not what his anceſtors were; virtues are not intailed; and it were leſs improper for the heirs of Hales and Harvey to pretend, that the clients and patients of their anceſtors ſhould depend upon their advice, in matters of law and phyſic, than for the heirs of a great and wiſe prince, to pretend to powers given on account of virtue, if they have not the ſame talents for the performance of the works required.

Common ſenſe declares, that governments are inſtituted, and judicatures erected, for the obtaining of juſtice. The king's bench was not eſtabliſhed, that the chief juſtice ſhould have a great office, but that the oppreſſed ſhould be relieved, and right done. The honour and profit he receives, comes in as it were by accident, as the rewards of his ſervice, if he rightly perform his duty: but he may as well pretend he is there for his own ſake, as the king. God did not ſet up Moſes or Joſhua, that they might glory in having ſix hundred thouſand men under their command, but that they might lead the people into the land they were to poſſeſs: that is, they were not for themſelves, but for the people; and the glory they acquired, was, by rightly performing the end of their inſtitution. Even our author is obliged to confeſs this, when he ſays, that the king's prerogative is inſtituted, for the good of thoſe that are under it. It is therefore for them that he enjoys it, and it can no otherwiſe ſubſiſt, than in concurrence with that end. He alſo yields, that "the ſafety of the people "is the ſupreme law." The right therefore that the king has, muſt be conformable and ſubordinate to it. If any one therefore ſet up an intereſt in himſelf, that is not ſo, he breaks this ſupreme law; he doth not live and reign for his people, but for himſelf, and, by departing from the end of his inſtitution, deſtroys it: and, if Ariſtotle (to whom our author ſeems to have a great deference) deſerves credit, ſuch a one ceaſes to be a king, and becomes a tyrant; he who ought to have been the beſt of men, is turned into the worſt; and he who is recommended to us under the name of a father, becomes a public enemy to the people. The queſtion therefore is not, what is good for the king, but what is good for the people; and he can have no right repugnant to them. Polit. l. i.

Bracton is not more gentle. "The king," ſays he, "is obliged by his "oath, to the utmoſt of his power, to preſerve the church, and the "chriſtian world, in peace; to hinder rapine, and all manner of "iniquity; to cauſe juſtice and mercy to be obſerved: he has no "power but from the law: that only is to be taken for law, quod "recte

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" recte fuerit definitum :" he is therefore to cauſe juſtice to be done according to that rule, and not to pervert it for his own pleaſure, profit, or glory. He may chooſe judges alſo, not ſuch as will be ſubſervient to his will, but " viros ſapientes, timentes Deum, in quibus eſt veritas " eloquiorum, & qui oderunt avaritiam." Which proves that kings, and their officers, do not poſſeſs their places for themſelves, but for the people, and muſt be ſuch as are fit and able to perform the duties they undertake. The miſchievous fury of thoſe who aſſume a power above their abilities, is well repreſented by the known fable of Phaeton: they think they deſire fine things for themſelves, when they ſeek their own ruin. In conformity to this, the ſame Bracton ſays, that " * If " any man who is unſkilful, aſſume the ſeat of juſtice, he falls as from " a precipice, &c. and it is the ſame thing, as if a ſword be put into " the hand of a madman;" which cannot but affect the king, as well as thoſe who are choſen by him. If he neglect the functions of his office, " he does unjuſtly, and becomes the vicegerent of the devil; " for he is the miniſter of him whoſe works he does." This is Bracton's opinion: but deſiring to be a more gentle interpreter of the law, I only wiſh, that princes would conſider the end of their inſtitution; endeavour to perform it; meaſure their own abilities; content themſelves with that power which the laws allow; and abhor thoſe wretches, who, by flattery and lyes, endeavour to work upon their fraileſt paſſions, by which means they draw upon them that hatred of the people, which frequently brings them to deſtruction.

Bract. l. iii. c. 10.

Tho' Ulpian's words, " Princeps legibus non tenetur," be granted to have been true in fact, with relation to the Roman empire, in the time when he lived; yet they can conclude nothing againſt us. The liberty of Rome had been overthrown long before, by the power of the ſword, and the law rendered ſubſervient to the will of the uſurpers. They were not Engliſhmen, but Romans, who loſt the battles of Pharſalia and Philippi: the carcaſes of their ſenators, not ours, were expoſed to the wolves and vulturs: Pompeius, Scipio, Lentulus, Afranius, Petreius, Cato, Caſſius, and Brutus, were defenders of the Roman, not the Engliſh liberty; and that of their country, not ours, could only be loſt by their defeat. Thoſe who were deſtroyed by the proſcriptions, left Rome, not England, to be enſlaved. If the beſt had gained the victory, it could have been no advantage to us, and their overthrow can be no prejudice. Every nation is to take care of their own laws; and whether any one has had the wiſdom, virtue, fortune, and power, to defend them or not, concerns only themſelves. The examples of great and good men, acting freely deſerve conſideration; but they only periſh by the ill ſucceſs of their deſigns; and whatſoever is afterwards done by their ſubdued poſterity, ought to have no other effect upon the reſt of the world, than to admoniſh them ſo to join in the defence of their liberties, as never to be brought under the neceſſity of acting by the command of one, to the prejudice of themſelves, and their country. If the Roman greatneſs perſuade us to put an extraordinary value upon what paſſed among

* Si quis minus ſapiens & indoctus ſedem judicandi & honeſtatem judicandi ſibi præſumſerit, ex alto corruit, &c. & perinde erit ac ſi gladium poneret in manu furentis. Ibid.

them,

them, we ought rather to examine what they did, ſaid, or thought, when they enjoyed that liberty, which was the mother and nurſe of their virtue, than what they ſuffered, or were forced to ſay, when they were fallen under that ſlavery which produced all manner of corruption, and made them the moſt baſe and miſerable people of the world. SECT. 6.

For what concerns us, the actions of our anceſtors reſemble thoſe of the antient rather than the later Romans: tho' our government be not the ſame with theirs in form, yet it is in principle; and if we are not degenerated, we ſhall rather deſire to imitate the Romans in the time of their virtue, glory, power, and felicity, than what they were, in that of their ſlavery, vice, ſhame, and miſery. In the beſt times, when "the laws were more powerful than the commands of "men," fraud was accounted a crime ſo deteſtable as not to be imputed to any but ſlaves; and he who had ſought a power above the law under colour of interpreting it, would have been expoſed to ſcorn or greater puniſhments, if any can be greater than the juſt ſcorn, of the beſt men. And as neither the Romans, nor any people of the world, have better defended their liberties than the Engliſh nation, when any attempt has been made to oppreſs them by force, they ought to be no leſs careful to preſerve them from the more dangerous efforts of fraud and falſhood.

Our anceſtors were certainly in a low condition in the time of William the Firſt; many of their beſt men had periſhed in the civil wars, or with Harold: their valour was great, but rough, and void of ſkill: the Normans by frequent expeditions into France, Italy, and Spain, had added ſubtilty to the boiſterous violence of their native climate: William had engaged his faith, but broke it, and turned the power with which he was intruſted to the ruin of thoſe that had truſted him. He deſtroyed many worthy men, carried others into Normandy, and thought himſelf maſter of all. He was crafty, bold, and elated with victory; but the reſolution of a brave people was invincible. When their laws and liberties were in danger, they reſolved to die, or to defend them; and made him ſee he could no otherwiſe preſerve his crown and life, than by the performance of his oath, and accompliſhing the ends of his election. They neither took him to be the giver or interpreter of their laws, and would not ſuffer him to violate thoſe of their anceſtors. In this way they always continued; and tho' perhaps they might want ſkill to fall upon the ſureſt and eaſieſt means of reſtraining the luſts of princes, yet they maintained their rights ſo well, that the wiſeſt princes ſeldom invaded them; and the ſucceſs of thoſe who were ſo fooliſh to attempt it was ſuch, as may juſtly deter others from following their unproſperous examples. We have had no king ſince William the Firſt more hardy than Henry the VIIIth, and yet he ſo intirely acknowledged the power of making, changing, and repealing laws, to be in the parliament, as never to attempt any extraordinary thing otherwiſe than by their authority. It was not he, but the parliament, that diſſolved the abbies: he did not take their lands to himſelf, but received what the parliament thought fit to give him: he did not reject the ſupremacy of the pope, nor aſſume any other power in ſpiritual

CHAP. III. matters than the parliament conferred upon him. The intricacies of his marriages, and the legitimation of his children, were ſettled by the ſame power: at leaſt one of his daughters could not inherit the crown upon any other title: they who gave him a power to diſpoſe of the crown by will might have given it to his groom; and he was too haughty to aſk it from them, if he had it in himſelf; which he muſt have had, if the laws and judicatures had been in his hand.

This is farther evidenced by what paſſed in the tower between Sir Thomas More, and Rich the king's ſolicitor; who aſking, if it would not be treaſon to oppoſe Richard Rich, if the parliament ſhould make him king, More ſaid that was "caſus levis;" for the parliament could make and depoſe kings as they thought fit; and then (as more conducing to his own caſe) aſked Rich, if the parliament ſhould enact, "that God ſhould not be God," whether ſuch as did not ſubmit ſhould be eſteemed traitors? It is evident, that a man of the acuteneſs and learning of Sir Tho. More would not have made uſe of ſuch an argument to avoid the neceſſity of obeying what the parliament had ordained, by ſhewing his caſe to be of a nature far above the power of man, unleſs it had been confeſſed by all men, that the parliament could do whatſoever lay within the reach of human power. This may be enough to prove, that the king cannot have a power over the law; and, if he has it not, the power of interpreting laws is abſurdly attributed to him, ſince it is founded upon a ſuppoſition, that he can make them, which is falſe.

Herbert's Hen. VIII.

SECT. XXVII.

Magna charta was not the original, but a declaration, of the Engliſh liberties. The king's power is not reſtrained, but created, by that and other laws; and the nation that made them can only correct the defects of them.

I Agree with our author, that "magna charta was not made to reſtrain "the abſolute authority;" for no ſuch thing was in being or pretended (the folly of ſuch viſions ſeeming to have been reſerved to complete the misfortunes and ignominy of our age;) but it was to aſſert the native and original liberties of our nation by the confeſſion of the king then being, that neither he nor his ſucceſſors ſhould any way encroach upon them: and, it cannot be ſaid that the power of kings is diminiſhed by that or any other law; for as they are kings only by law, the law may confer power upon one in particular, or upon him and his ſucceſſors; but can take nothing from them, becauſe they have nothing except what is given to them. But as that which the law gives, is given by thoſe who make the law, they only are capable of judging whether he to whom they gave it, do well or ill employ that power, and conſequently are only fit to correct the defects that may be found in it. Therefore, tho' I ſhould confeſs, that faults may be found in many ſtatutes, and that the whole

whole body of them is greatly defective, it will not follow, that the compendious way of referring all to the will of the king ſhould be taken. But what defects ſoever may be in our law, the diſeaſe is not ſo great to require extreme remedies, and we may hope for a cheaper cure. Our law may poſſibly have given away too much from the people, and provided only inſufficient defences of our liberties againſt the encroachments of bad princes; but none who are not in judgment and honeſty like to our author, can propoſe for a remedy to the evils that proceed from the error of giving too much, the reſignation of all the reſt to them. Whatever he ſays, it is evident, that he knows this to be true, when, tho' he denies, that the power of kings can be reſtrained by acts of parliament, he endeavours to take advantage of ſuch clauſes as were either fraudulently inſerted by the king's officers, who till the days of Henry the Fifth, for the moſt part, had the penning of the public acts, or through negligence did not fully explain the intentions of the legiſlators; which would be to no purpoſe, if all were put into the hands of the king by a general law from God, that no human power could diminiſh or enlarge; and as his laſt ſhift would obliquely put all into the power of the king, by giving him a right of interpreting the law, and judging ſuch caſes as are not clearly decided; which would be equally impertinent, if he had openly and plainly a right of determining all things according to his will. SECT. 27.

But what defects ſoever may be in any ſtatutes, no great inconveniences could probably enſue, if that for annual parliaments was obſerved, as of right it ought to be. Nothing is more unlikely, than that a great aſſembly of eminent and choſen men ſhould make a law evidently deſtructive to their own deſigns; and no miſchief, that might emerge upon the diſcovery of a miſtake, could be ſo extreme, that the cure might not be deferred till the meeting of the parliament, or at leaſt forty days (in which time the king may call one) if that which the law has fixed ſeem to be too long. If he fail of this, he performs not his truſt; and he that would reward ſuch a breach of it, with a vaſt and uncontroulable power may be juſtly thought equal in madneſs to our author, who by forbidding us to examine the titles of kings, and injoining an entire veneration of the power, by what means ſoever obtained, encourages the worſt of men to murder the beſt of princes, with an aſſurance, that, if they proſper, they ſhall enjoy all the honours and advantages that this world can afford.

Princes are not much more beholden to him for the haughty language he puts into their mouths, it having been obſerved, that the worſt are always moſt ready to uſe it; and their extravagances having been often chaſtiſed by law, ſufficiently proves, that their power is not derived from a higher original, than the law of their own countries.

If it were true, that the anſwer ſometimes given by kings to bills preſented for their aſſent, did, as our author ſays, amount to a denial, it could only ſhew, that they have a negative voice upon that which is agreed by the parliament, and is far from a power of acting by themſelves, being only a check upon the other parts of the government. But indeed it is more than an eluſion; and he that does by art

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art obliquely elude, confeſſes he has not a right abſolutely to refuſe. It is natural to kings, eſpecially to the worſt, to ſcrue up their authority to the height; and nothing can more evidently prove the defect of it, than the neceſſity of having recourſe to ſuch pitiful evaſions, when they are unwilling to do that which is required. But if I ſhould grant, that the words import a denial, and that (notwithſtanding thoſe of the coronation oath, "quas vulgus elegerit") they might deny; no more could be inferred from thence, than that they are entruſted with a power equal, in that point, to that of either houſe, and cannot be ſupreme in our author's ſenſe, unleſs there were in the ſame ſtate at the ſame time three diſtinct ſupreme and abſolute powers; which is abſurd.

His caſes, relating to the proceedings of the ſtar-chamber and council-table, do only prove, that ſome kings have encroached upon the rights of the nation, and been ſuffered till their exceſſes growing to be extreme, they turned to the ruin of the miniſters that adviſed them, and ſometimes of the kings themſelves. But the juriſdiction of the council having been regulated by the ſtatute of the 17 Car. I. and the ſtar-chamber more lately aboliſhed, they are nothing to our diſpute.

Such as our author uſually impute to treaſon and rebellion the changes that upon ſuch occaſions have enſued; but all impartial men do not only juſtify them, but acknowledge, that all the crowns of Europe are at this day enjoyed by no other title than ſuch acts ſolemnly performed by the reſpective nations, who, either diſliking the perſon that pretended to the crown (tho' next in blood), or the government of the preſent poſſeſſor, have thought fit to prefer another perſon or family. They alſo ſay, that as no government can be ſo perfect but ſome defect may be originally in it, or afterwards introduced, none can ſubſiſt, unleſs they be from time to time reduced to their firſt integrity, by ſuch an exertion of the power of thoſe for whoſe ſake they were inſtituted, as may plainly ſhew them to be ſubject to no power under heaven, but may do whatever appears to be for their own good. And as the ſafety of all nations conſiſts in rightly placing and meaſuring this power, ſuch have been found always to proſper, who have given it to thoſe from whom uſurpations were leaſt to be feared; who have been leaſt ſubject to be awed, cheated, or corrupted; and who, having the greateſt intereſt in the nation, were moſt concerned to preſerve its power, liberty, and welfare, This is the greateſt truſt that can be repoſed in men. This power was by the Spartans given to the ephori, and the ſenate of twenty-eight; in Venice to that which they call "concilio de pregadi;" in Germany, Spain, France, Swedeland, Denmark, Poland, Hungary, Bohemia, Scotland, England, and generally all the nations that have lived under the Gothic polity, it has been in their general aſſemblies, under the names of diets, cortez, parliaments, ſenates, and the like. But in what hands ſoever it is, the power of making, abrogating, changing, correcting, and interpreting laws, has been in the ſame; kings have been rejected or depoſed; the ſucceſſion of the crown ſettled, regulated, or changed: and I defy any man to ſhew me one king amongſt all the nations above-mentioned, that has any right to the crown he wears, unleſs ſuch acts are good.

If

If this power be not well placed, or rightly proportioned to that which is given to other magiſtrates, the ſtate muſt neceſſarily fall into great diſorders, or the moſt violent and dangerous means muſt be frequently uſed to preſerve their liberty. Sparta and Venice have rarely been put to that trouble, becauſe the ſenates were ſo much above the kings and dukes in power, that they could without difficulty bring them to reaſon. The Gothic kings in Spain never ventured to diſpute with the nobility; and Witza and Rodrigo expoſed the kingdom as a prey to the Moors, rather by weakening it through the neglect of military diſcipline, joined to their own ignorance and cowardice, and by evil example bringing the youth to reſemble them in lewdneſs and baſeneſs, than by eſtabliſhing in themſelves a power above the law. But in England our anceſtors, who ſeem to have had ſome ſuch thing in their eye, as balancing the powers, by a fatal miſtake placed uſually ſo much in the hands of the king, that whenſoever he happened to be bad, his extravagances could not be repreſſed without great danger. And as this has in ſeveral ages coſt the nation a vaſt proportion of generous blood, ſo it is the cauſe of our preſent difficulties, and threatens us with more, but can never deprive us of the rights we inherit from our fathers. SECT. 28.

SECT. XXVIII.

The Engliſh nation has always been governed by itſelf, or its repreſentatives.

HAVING proved, that the people of England have never acknowledged any other human law than their own, and that our parliaments having the power of making and abrogating laws, they only can interpret them, and decide hard caſes, it plainly appears there can be no truth in our author's aſſertion, that "the king is the author, "corrector and moderator of both ſtatute and common law:" and nothing can be more frivolous than what he adds, that "neither of "them can be a diminution of that natural power which kings have "over their people as fathers;" inaſmuch as the differences between paternal and monarchical power (as he aſſerts it) are vaſt and irreconcileable in principle and practice, as I have proved at large in the former parts of this work.

But leſt we ſhould be too proud of the honour he is pleaſed to do to our parliaments by making uſe of their authority, he ſays, "We "are firſt to remember, that till the conqueſt" (which name, for the glory of our nation, he gives to the coming in of the Normans) "there could be no parliament aſſembled of the general ſtates, becauſe "we cannot learn, that until thoſe days it was intirely united in one." Secondly, he doubts, "Whether the parliament, in the time of the "Saxons were compoſed of the nobility and clergy, or whether the "commons were alſo called;" but concludes, "there could be no "knights of any ſhires, becauſe there were no ſhires." Thirdly, "That Henry the Firſt cauſed the commons firſt to aſſemble knights

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" and burgeſſes of their own chuſing ;" and would make this to be an act of grace and favour from that king : but adds, that " it had been " more for the honour of parliaments, if a king whoſe title to the " crown had been better, had been the author of the form of it."

In anſwer to the firſt, I do not think myſelf obliged to inſiſt upon the name or form of the parliament ; for the authority of a magiſtracy proceeds not from the number of years that it has continued, but the rectitude of the inſtitution, and the authority of thoſe that inſtituted it. The power of Saul, David, and Jeroboam, was the ſame with that which belonged to the laſt kings of Iſrael and Judah. The authority of the Roman conſuls, dictators, prætors, and tribunes, was the ſame as ſoon as it was eſtabliſhed ; was as legal and juſt as that of the kings of Denmark, which is ſaid to have continued above three thouſand years. For as time can make nothing lawful or juſt, that is not ſo of itſelf (tho' men are unwilling to change that which has pleaſed their anceſtors, unleſs they diſcover great inconveniences in it) that which a people does rightly eſtabliſh for their own good, is of as much force the firſt day, as continuance can ever give to it : and therefore in matters of the greateſt importance, wiſe and good men do not ſo much inquire what has been, as what is good, and ought to be ; for that which of itſelf is evil, by continuance is made worſe, and, upon the firſt opportunity, is juſtly to be aboliſhed. But if that liberty in which God created man, can receive any ſtrength from continuance, and the rights of Engliſhmen can be rendered more unqueſtionable by preſcription, I ſay, that the nations, whoſe rights we inherit, have ever enjoyed the liberties we claim, and always exerciſed them in governing themſelves popularly, or by ſuch repreſentatives as have been inſtituted by themſelves, from the time they were firſt known in the world.

The Britons and Saxons lay ſo long hid in the obſcurity that accompanies barbariſm, that it is in vain to ſeek what was done by either in any writers more antient than Cæſar and Tacitus. The firſt deſcribes the Britons to have been a fierce people, zealous for liberty, and ſo obſtinately valiant in the defence of it, that tho' they wanted ſkill, and were overpowered by the Romans, their country could no otherwiſe be ſubdued, than by the ſlaughter of all the inhabitants that were able to bear arms. He calls them a free people, inaſmuch as they were not like the Gauls, governed by laws made by the great men, but by the people. In his time they choſe Caſſivellaunus, and afterwards Caractacus, Arviragus, Galgacus, and others, to command them in their wars, but they retained the government in themſelves. That no force might be put upon them, they met armed in their general aſſemblies ; and tho' the ſmaller matters were left to the determination of the chief men, choſen by themſelves for that purpoſe, they reſerved the moſt important (amongſt which the chuſing of thoſe men was one) to themſelves. When the Romans had brought them low, * they ſet up certain kings to govern ſuch as were within their territories : but thoſe who defended themſelves by the natural ſtrength of their ſituation, or retired into the North, or the iſlands, were ſtill

* Inter inſtrumenta ſervitutis reges habuere. C. Tacit. Agric. vit. c. 14.

ſtill governed by their own cuſtoms, and were never acquainted with domeſtic or foreign ſlavery. The Saxons, from whom we chiefly derive our original and manners, were no leſs lovers of liberty, and better underſtood the ways of defending it. They were certainly the moſt powerful and valiant people of Germany; and what the Germans performed under Arioviſtus, Arminius, and Maroboduus, ſhews both their force, and their temper. If ever fear entered into the heart of Cæſar, it ſeems to have been when he had to deal with Arioviſtus. The advantages that the brave Germanicus obtained againſt Arminius, were at leaſt thought equal to the greateſt victories that had been gained by any Roman captain, becauſe theſe nations fought not for riches, or any inſtruments of luxury and pleaſure, which they deſpiſed, but for liberty. This was the principle in which they lived, as appears by their words and actions; ſo that Arminius, when his brother Flavius, who ſerved the Romans, boaſted of the increaſe of his pay, and the marks of honour he had received, in ſcorn called them the "* rewards of the vileſt ſervitude;" but when he himſelf endeavoured to uſurp a power over the liberty of his country, which he had ſo bravely defended, he was killed by thoſe he would have oppreſſed. Tacitus, farther deſcribing the nature of the Germans, ſhews that the Romans had run greater hazards from them than from the Samnites, Carthaginians, and Parthians; and attributes their bravery to the † liberty they enjoyed; for they are, ſays he, neither ‖ exhauſted by tributes, nor vexed by publicans: and leſt this liberty ſhould be violated, "‖‖ the chief men conſult about things of leſſer moment; but "the moſt important matters are determined by all." Whoever would know the opinion of that wiſe author concerning the German liberty, may read his excellent treatiſe concerning their manners and cuſtoms; but I preſume this may be enough to prove, that they lived free under ſuch magiſtrates as they choſe, regulated by ſuch laws as they made, and retained the principal powers of the government in their general or particular councils. Their kings and princes had no other power than was conferred upon them by theſe ‡ aſſemblies, who, having all in themſelves, could receive nothing from them, who had nothing to give.

SECT. 28.

It is as eaſily proved, that the Saxons or Angli, from whom we deſcend, were eminent among thoſe, whoſe power, virtue, and love to liberty, the above-mentioned hiſtorian ſo highly extols, inaſmuch as, beſides what he ſays in general of the Saxons, he names the Angli; deſcribes their habitation near the Elb, and their religious worſhip of the goddeſs Erthum, or the Earth, celebrated in an iſland lying in the mouth of that river, thought to be Heyligland; in reſemblance of which a ſmall one lying over-againſt Berwick, is called Holy iſland.

* Vilis ſervitii præmia. Tacit. ann l. ii. 9.

† Quippe gravior eſt Arſacis regno Germanorum libertas. Tac. mor. Germ. c. 37.

‖ Exempti oneribus & collationibus, & tantum in uſum præliorum ſepoſiti, velut tela & arma bellis reſervantur.

‖‖ De minoribus principes conſultant, de majoribus omnes. C. Tacit. de mor. Germ.

‡ Ut turbæ placuit, conſidunt armati: ſilentium per ſacerdotes, quibus tum coercendi jus eſt, imperatur. Mox rex vel princeps, prout ætas cuique, prout nobilitas, prout decus bellorum, prout facundia eſt, audiuntur, autoritate ſuadendi, magis quam jubendi poteſtate. Si diſplicuit ſententia, fremitu aſpernantur; ſi placuit, frameas concutiunt, &c. Ibid.

If

CHAP. III. If they were free in their own country, they muſt be ſo when they came hither. The manner of their coming ſhews they were more likely to impoſe, than ſubmit to ſlavery; and if they had not the name of parliament, it was becauſe they did not ſpeak French; or, not being yet joined with the Normans, they had not thought fit to put their affairs into that method: but, having the root of power and liberty in themſelves, they could not but have a right of eſtabliſhing the one in ſuch form as beſt pleaſed them, for the preſervation of the other.

This being, as I ſuppoſe, undeniable, it imports not whether the aſſemblies, in which the ſupreme power of each nation did reſide were frequent or rare; compoſed of many or few perſons; ſitting all together in one place, or in more; what name they had; or whether every free man did meet and vote in his own perſon, or a few were delegated by many. For they who have a right inherent in themſelves, may reſign it to others; and they who can give a power to others, may exerciſe it themſelves, unleſs they recede from it by their own act; for it is only matter of convenience, of which they alone can be the judges, becauſe it is for themſelves only that they judge. If this were not ſo, it would be very prejudicial to kings: for it is certain, that Caſſivellaunus, Caractacus, Arviragus, Galgacus, Hengiſt, Horſa, and others amongſt the Britons and Saxons, what name ſoever may have been abuſively given to them, were only temporary magiſtrates choſen upon occaſion of preſent wars; but we know of no time in which the Britons had not their great council to determine their moſt important affairs: and the Saxons in their own country had their councils, where all were preſent, and in which Tacitus aſſures us they diſpatched their greateſt buſineſs. Theſe were the ſame with the micklegemots which they afterwards held here, and might have been called by the ſame name, if Tacitus had ſpoken Dutch.

If a people therefore have not a power to create at any time a magiſtracy which they had not before, none could be created at all; for no magiſtracy is eternal: and if for the validity of the conſtitution it be neceſſary, that the beginning muſt be unknown, or that no other could have been before it, the monarchy amongſt us cannot be eſtabliſhed upon any right; for, tho' our anceſtors had their councils and magiſtrates, as well here as in Germany, they had no monarchs. This appears plainly by the teſtimony of Cæſar and Tacitus; and our later hiſtories ſhew, that as ſoon as the Saxons came into this country, they had their miklegemots, which were general aſſemblies of the noble and free-men, who had in themſelves the power of the nation: and tho', when they increaſed in numbers, they erected ſeven kingdoms, yet every one retained the ſame uſage within itſelf. Theſe aſſemblies were evidently the ſame in power with our parliaments; and tho' they differed in name or form, it matters not; for they who could act in the one, could not but have a power of inſtituting the other; that is, the ſame people that could meet together in their own perſons, and according to their own pleaſure order all matters relating to themſelves, whilſt three or four counties only were under one government, and their numbers were not ſo

great, or their habitation ſo far diſtant, that they might not meet all together without inconvenience, with the ſame right might depute others to repreſent them, when, being joined in one, no place was capable of receiving ſo great a multitude, and that the frontiers would have been expoſed to the danger of foreign invaſions, if any ſuch thing had been practiſed. SECT. 28.

But if the authority of parliaments, for many ages repreſenting the whole nation, were leſs to be valued (as our author inſinuates), becauſe they could not repreſent the whole, when it was not joined in one body, that of kings muſt come to nothing; for there could be no one king over all, when the nation was divided into ſeven diſtinct governments: and it is moſt abſurd to think, that the nation, which had ſeven great councils, or micklegemots, at the ſame time they had ſeven kingdoms, could not as well unite the ſeven councils as the ſeven kingdoms into one. It is to as little purpoſe to ſay, that the nation did not unite itſelf, but the ſeveral parcels came to be inherited by one; for that one could inherit no more from the others than what they had; and the ſeven being only magiſtrates ſet up by the micklegemots, &c. the one muſt be ſo alſo. And it is neither reaſonable to imagine, nor poſſible to prove, that a fierce nation, jealous of liberty, and who had obſtinately defended it in Germany, againſt all invaders, ſhould conquer this country to enſlave themſelves, and purchaſe nothing by their valour but that ſervitude which they abhorred; or be leſs free when they were united into one ſtate, than they had been when they were divided into ſeven; and leaſt of all, that one man could firſt ſubdue his own people, and then all the reſt, when, by endeavouring to ſubdue his own, he had broken the truſt repoſed in him, and loſt the right conferred upon him, and without them had not power to ſubdue any. But as it is my fate almoſt ever to diſſent from our author, I affirm, that the variety of government, which is obſerved to have been amongſt the Saxons, who in ſome ages were divided, in others united; ſometimes under captains, in other times under kings; ſometimes meeting perſonally in the micklegemots, ſometimes by their delegates in the wittenagemots; does evidently teſtify, that they ordered all things according to their own pleaſure; which being the utmoſt act of liberty, it remained inviolable under all thoſe changes, as we have already proved by the confeſſion of Offa, Ina, Alfred, Canutus, Edward, and other particular, as well as univerſal kings: and we may be ſure thoſe of the Norman race can have no more power, ſince they came in by the ſame way, and ſwore to govern by the ſame laws.

2. I am no way concerned in our author's doubt, "whether par-"liaments did, in thoſe days, conſiſt of nobility and clergy; or "whether the commons were alſo called." For if it were true, as he aſſerts, that, according to the eternal law of God and nature, there can be no government in the world but that of an abſolute monarch, whoſe ſovereign majeſty can be diminiſhed by no law or cuſtom, there could be no parliaments, or other magiſtracies, that did not derive their power and being from his will. But having proved, that the Saxons had their general councils and aſſemblies, when they had no kings; that by them kings were made, and the greateſt affairs de-

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termined, whether they had kings or not; it can be of no importance, whether in one or more ages the commons had a part in the government, or not. For the ſame power that inſtituted a parliament without them, might, when they thought fit, receive them into it: or rather, if they who had the government in their hands, did, for reaſons known to themſelves, recede from the exerciſe of it, they might reſume it when they pleaſed.

Nevertheleſs it may be worth our pains to inquire, what our author means by nobility. If ſuch, as at this day, by means of patents obtained for money, or by favour, without any regard to merit in the perſons, or their anceſtors, are called dukes, marquiſes, &c. I give him leave to impute as late and baſe an original to them as he pleaſes, without fearing, that the rights of our nation can thereby be impaired; and am content, that if the king do not think fit to ſupport the dignity of his own creatures, they may fall to the ground. But if by noblemen we are to underſtand ſuch as have been ennobled by the virtues of their anceſtors, manifeſted in ſervices done to their country, I ſay, that all nations, amongſt whom virtue has been eſteemed, have had a great regard to them and their poſterity: and tho' kings, when they were made, have been intruſted by the Saxons, and other nations, with a power of ennobling thoſe, who, by ſervices rendered to their country, might deſerve that honour; yet the body of the nobility was more antient than ſuch; for it had been equally impoſſible to take * kings (according to Tacitus) out of the nobility, if there had been no nobility, as to take captains for their virtue, if there had been no virtue; and princes could not without breach of that truſt, confer honours upon thoſe that did not deſerve them; which is ſo true, that this practice was objected as the greateſt crime againſt † Vortigern, the laſt and the worſt of the Britiſh kings: and tho' he might pretend (according to ſuch cavils as are uſual in our time) that the judgment of thoſe matters was referred to him; yet the world judged of his crimes, and when he had rendered himſelf odious to God and men by them, he periſhed in them, and brought deſtruction upon his country, that had ſuffered them too long.

As among the Turks, and moſt of the eaſtern tyrannies, there is no nobility, and no man has any conſiderable advantage above the common people, unleſs by the immediate favour of the prince; ſo in all the legal kingdoms of the north, the ſtrength of the government has always been placed in the nobility; and no better defence has been found againſt the encroachments of ill kings, than by ſetting up an order of men, who, by holding large territories, and having great numbers of tenants and dependents, might be able to reſtrain the exorbitances, that either the kings, or the commons, might run into. For this end Spain, Germany, France, Poland, Denmark, Sweden, Scotland, and England, were almoſt wholly divided into lordſhips

* Reges ex nobilitate, duces ex virtute ſumere. Tac. mor. Germ. c. 7.

† Sublimato eo cœpit lues omnium ſcelerum creſcere: ſæviebat ſcurrilis nequitia, odium veritatis, &c. ut vas omnium ſcelerum ſolus videretur Vortigernus; &, quod maxime regiæ honeſtati contrarium eſt, nobiles deprimens, & moribus & ſanguine ignobiles extollens, Deo & hominibus efficitur odioſus. Mat. Weſtm. An. 446.

under ſeveral names, by which every particular poſſeſſor owed allegiance (that is, ſuch an obedience as the law requires) to the king, and he reciprocally ſwore to perform that which the ſame law exacted from him. SECT. 28.

When theſe nations were converted to the chriſtian religion, they had a great veneration for the clergy; and, not doubting that the men whom they eſteemed holy, would be juſt, thought their liberties could not be better ſecured, than by joining thoſe who had the direction of their conſciences, to the noblemen who had the command of their forces. This ſucceeded ſo well (in relation to the defence of the public rights) that in all the forementioned ſtates, the biſhops, abbots, &c. were no leſs zealous or bold in defending the public liberty, than the beſt and greateſt of the lords: and if it were true, that things being thus eſtabliſhed, the commons did neither perſonally, nor by their repreſentatives, enter into the general aſſemblies, it could be of no advantage to kings; for ſuch a power as is above-mentioned, is equally inconſiſtent with the abſolute ſovereignty of kings, if placed in the nobility and clergy, as if the commons had a part. If the king has all, no other man, nor number of men, can have any. If the nobility and clergy have the power, the commons may have their ſhare alſo. But I affirm, that thoſe whom we now call commons, have always had a part in the government, and their place in the councils that managed it; for if there was a diſtinction, it muſt have been by patent, birth, or tenure.

As for patents, we know they began long after the coming of the Normans, and thoſe that now have them cannot pretend to any advantage on account of birth or tenure, beyond many of thoſe who have them not. Nay, beſides the ſeveral branches of the families that now enjoy the moſt antient honours, which conſequently are as noble as they, and ſome of them of the elder houſes, we know many that are now called commoners, who in antiquity and eminency are no way inferior to the chief of the titular nobility: and nothing can be more abſurd, than to give a prerogative of birth to Craven, Tufton, Hyde, Bennet, Oſborn, and others, before the Cliftons, Hampdens, Courtneys, Pelhams, St. Johns, Baintons, Wilbrahams, Hungerfords, and many others. And if the tenures of their eſtates be conſidered, they have the ſame, and as antient as any of thoſe who go under the names of duke, or marquis. I forbear to mention the ſordid ways of attaining to titles in our days; but whoever will take the pains to examine them, ſhall find, that they rather defile than ennoble the poſſeſſors. And whereas men are truly ennobled only by virtue, and reſpect is due to ſuch as are deſcended from thoſe who have bravely ſerved their country, becauſe it is preſumed (till they ſhew the contrary), that they will reſemble their anceſtors, theſe modern courtiers, by their names and titles, frequently oblige us to call to mind ſuch things as are not to be mentioned without bluſhing. Whatever the antient noblemen of England were, we are ſure they were not ſuch as theſe. And tho' it ſhould be confeſſed, that no others than dukes, marquiſes, earls, viſcounts, and barons, had their places in the councils mentioned by

Cæſar

CHAP. III. Cæſar and Tacitus, or in the great aſſemblies of the Saxons, it could be of no advantage to ſuch as now are called by thoſe names. They were the titles of offices conferred upon thoſe, who did and could beſt conduct the people in time of war, give counſel to the king, adminiſter juſtice, and perform other public duties; but were never made hereditary except by abuſe; much leſs were they ſold for money, or given as recompences of the vileſt ſervices. If the antient order be totally inverted, and the ends of its inſtitution perverted, they who from thence pretend to be diſtinguiſhed from other men, muſt build their claim upon ſomething very different from antiquity.

This being ſufficient (if I miſtake not) to make it appear, that the antient councils of our nation did not conſiſt of ſuch as we now call noblemen, it may be worth our pains to examine, of what ſort of men they did conſiſt: and tho' I cannot much rely upon the credit of Camden, which he has forfeited by a great number of untruths, I will begin with him, becauſe he is cited by our author. If we will believe him, "(*a*) that which the Saxons called wittena-"gemot, we may juſtly name parliament, which has the ſupreme "and moſt ſacred authority of making, abrogating, and interpreting "laws, and generally of all things relating to the ſafety of the com-"monwealth." This wittenagemot was, according to William of Malmſbury, "(*b*) the general meeting of the ſenate and people;" and Sir Harry Spelman calls it, "(*c*) the general council of the clergy "and people." In the aſſembly at Calcuth it was decreed by the archbiſhops, biſhops, abbots, dukes, ſenators, and the people of the land "(populo terræ)," that "the (*d*) kings ſhould be elected by the prieſts "and elders of the people." By theſe Offa, Ina, and others, were made kings; and Alfred, in his will, acknowledged his (*e*) crown from them. Edgar was elected by all the people, and not long after depoſed by them, and again reſtored in a (*f*) general aſſembly. Theſe things being ſometimes ſaid to be done by the aſſent of the barons of the kingdom, Camden ſays, that "under the name of the (*g*) "baronage, all the orders of the kingdom are in a manner compre-"hended;" and it cannot be otherwiſe underſtood, if we conſider, that thoſe called noblemen, or the nobility of England, are often, by the hiſtorians, ſaid to be "(infinita multitudo)" an infinite multitude.

If any man aſk how the nobility came to be ſo numerous; I anſwer, that the northern nations, who were perpetually in arms, put a high eſteem upon military valour; ſought by conqueſt to acquire better countries than their own; valued themſelves according to the numbers of men they could bring into the field; and to diſtinguiſh them from villains, called thoſe noblemen, who nobly de-

(*a*) Quod Saxones olim wittenagemot, parliamentum & pananglicum recte dici poſſit, ſummamque & ſacroſanctam habet auctoritatem in legibus ferendis, antiquandis, conformandis, interpretandis, & in omnibus quæ ad reipublicæ ſalutem ſpectant. Brit. fol. 63.

(*b*) Generalis ſenatus & populi conventus. Malmſ.

(*c*) Commune concilium tam cleri quam populi. Spelm.

(*d*) Ut reges à ſacerdotibus & ſenioribus populi eligantur.

(*e*) Quam Deus & principes cum ſenioribus populi miſericorditer & benigne dederunt.

(*f*) Coram omni multitudine populi Anglorum.

(*g*) Nomine baronagii omnes quodammodo regni ordines continentur. Camd.

fended

fended and enlarged their dominions by war; and for a reward of their ſervices, in the diviſion of lands gained by conqueſt, they diſtributed to them freeholds, under the obligation of continuing the ſame ſervice to their country. This appears by the name of knights ſervice, a knight being no more than a ſoldier, and a knight's fee no more than was ſufficient to maintain one. It is plain, that knighthood was always eſteemed nobility; ſo that no man, of what quality ſoever, thought a knight inferior to him, and thoſe of the higheſt birth could not act as noblemen till they were knighted. Among the Goths in Spain, the cutting off the hair (which being long, was the mark of knighthood) was accounted a degrading, and looked upon to be ſo great a mark of infamy, that he who had ſuffered it, could never bear any honour or office in the commonwealth; and there was no dignity ſo high, but every knight was capable of it. There was no diſtinction of men above it, and even to this day "baron," or "varon," in their language, ſignifies no more than "vir" in Latin, which is not properly given to any man, unleſs he be free. The like was in France, till the coming in of the third race of kings, in which time the 12 peers (of whom 6 only were laymen) were raiſed to a higher dignity, and the commands annexed made hereditary; but the honour of knighthood was thereby no-way diminiſhed. Tho' there were dukes, earls, marquiſes, and barons, in the time of Froiſſart, yet he uſually calls them knights: and Philip de Comm n s, ſpeaking of the moſt eminent men of his time, calls them good, wiſe, or valiant knights. Even to this day the name of gentleman comprehends all that is raiſed above the common people; Henry the fourth uſually called himſelf the firſt gentleman in France. and it is an ordinary phraſe among them, when they ſpeak of a gentleman of good birth, to ſay, "Il eſt noble comme le roy; he is as noble as the king." In their general aſſembly of eſtates, "the chamber of the nobleſſe," which is one of three, is compoſed of the deputies ſent by the gentry of every province; and in the inquiry, made about the year 1668. concerning nobility, no notice was taken of ſuch as had aſſumed the titles of earl, marquis, viſcount, or baron, but only of thoſe who called themſelves gentlemen; and if they could prove that name to belong to them, they were left to uſe the other titles as they pleaſed. When duels were in faſhion (as all know they were lately) no man, except the princes of the blood, and mareſchals of France, could with honour refuſe a challenge from any gentleman: the firſt, becauſe it was thought unfit, that he who might be king, ſhould fight with a ſubject to the danger of the commonwealth, which might, by that means, be deprived of its head: the others being by their office commanders of the nobility, and judges of all the controverſies relating to honour, that happen amongſt them, cannot reaſonably be brought into private conteſts with any. In Denmark, nobleman and gentleman is the ſame thing; and till the year 1660. they had the principal part of the government in their hands. When Charles Guſtavus, king of Sweden, invaded Poland in the year 1655. it is ſaid, that there were above three hundred thouſand gentlemen in arms to reſiſt him. This is the nobility of that country, kings are choſen by them: every one of them will ſay, as in France, "he is

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" noble as the king." The laſt king was a private man among them, not thought to have had more than four hundred pounds a year. He who now reigns was not at all above him in birth or eſtate, till he had raiſed himſelf by great ſervices done for his country in many wars; and there was not one gentleman in the nation who might not have been choſen as well as he, if it had pleaſed the aſſembly that did it.

This being the nobility of the northern nations, and the true baronage of England, it is no wonder that they were called " nobiles;" the moſt eminent among them " magnates, principes, proceres;" and ſo numerous, that they were eſteemed to be " multitudo infinita." One place was hardly able to contain them; and the inconveniences of calling them all together appeared to be ſo great, that they in time choſe rather to meet by repreſentatives, than every one in his own perſon. The power therefore remaining in them, it matters not what method they obſerved in the execution. They who had the ſubſtance in their hands, might give it what form they pleaſed. Our author ſufficiently manifeſts his ignorance, in ſaying, there could be no knights of the ſhires in the time of the Saxons, becauſe there were no ſhires; for the very word is Saxon, and we find the names of Berkſhire, Wiltſhire, Devonſhire, Dorſetſhire, and others, moſt frequently in the writings of thoſe times; and dukes, earls, thanes, or aldermen, appointed to command the forces, and look to the diſtribution of juſtice in them. Selden cites Ingulphus for ſaying, that " Alfred was " the firſt that changed the provinces, &c. into counties:" but refutes him, and proves, that the diſtinction of the land into ſhires or counties (for ſhire ſignified no more than the ſhare or part committed to the care of the earl or comes) was far more antient. Whether the firſt diviſions by the Saxons were greater or leſſer than the ſhires or counties now are, is nothing to the queſtion: they who made them to be as they were, could have made them greater or leſſer, as they pleaſed. And whether they did immediately, or ſome ages after that diſtinction, ceaſe to come to their great aſſemblies, and rather chuſe to ſend their deputies; or whether ſuch deputies were choſen by counties, cities, and boroughs, as in our days, or in any other manner; can be of no advantage or prejudice to the cauſe that I maintain. If the power of the nation, when it was divided into ſeven kingdoms, or united under one, did reſide in the micklegemots or wittenagemots; if theſe conſiſted of the nobility and people, who were ſometimes ſo numerous, that no one place could well contain them; and if the preference given to the chief among them was on account of the offices they executed, either in relation to war or juſtice, which no man can deny; I have as much as ſerves for my purpoſe. It is indifferent to me, whether they were called earls, dukes, aldermen, herotoghs, or thanes; for it is certain, that the titular nobility, now in mode amongſt us, has no reſemblance to this antient nobility of England. The novelty therefore is on the other ſide, and that of the worſt ſort; becauſe, by giving the name of noblemen (which antiently belonged to ſuch as had the greateſt intereſts in nations, and were the ſupporters of their liberty) to court-creatures, who often have none, and either acquire their honours by money, or are preferred for ſervile, and ſometimes impure

Selden's tit. of hon. p. 2. c. 5.

ſervices

ſervices rendered to the perſon that reigns, or elſe for miſchiefs done to their country, the conſtitution has been wholly inverted, and the truſt repoſed in the kings, (who in ſome meaſure had the diſpoſal of offices and honours) miſemployed. This is farther aggravated by appropriating the name of noblemen ſolely to them; whereas the nation having been antiently divided only into freemen or noblemen (who were the ſame) and villains; the firſt were, as Tacitus ſays of their anceſtors the Germans, "* exempted from burdens and contri- "butions, and reſerved like arms for the uſes of war," whilſt the others were little better than ſlaves, appointed to cultivate the lands, or to other ſervile offices. And I leave any reaſonable man to judge, whether the latter condition be that of thoſe we now call commoners. Nevertheleſs, he that will believe the title of noblemen ſtill to belong to thoſe only who are ſo by patent, may gueſs how well our wars would be managed, if they were left ſolely to ſuch as are ſo by that title. If this be approved, his majeſty may do well with his hundred and fifty noblemen, eminent in valour and military experience as they are known to be, to make ſuch wars as may fall upon him, and leave the deſpiſed commons, under the name of villains, to provide for themſelves, if the ſucceſs do not anſwer his expectations. But if the commons are as free as the nobles, many of them in birth equal to the patentees, in eſtate ſuperior to moſt of them; and that it is not only expected they ſhould aſſiſt him in wars with their perſons and purſes, but acknowledged by all, that the ſtrength and virtue of the nation is in them; it muſt be confeſſed, that they are true noblemen of England, and that all the privileges, antiently enjoyed by ſuch, muſt neceſſarily belong to them, ſince they perform the offices to which they were annexed. This ſhews how the nobility were juſtly ſaid to be almoſt infinite in number, ſo that no one place was able to contain them. The Saxon armies, that came over into this country to a wholſome and generative climate, might well increaſe in four or five ages to thoſe vaſt numbers, as the Franks, Goths, and others, had done in Spain, France, Italy, and other parts; and when they were grown ſo numerous, they found themſelves neceſſarily obliged to put the power into the hands of repreſentatives choſen by themſelves, which they had before exerciſed in their own perſons. But theſe two ways differing rather in form than eſſentially, the one tending to democracy, the other to ariſtocracy, they are equally oppoſite to the abſolute dominion of one man reigning for himſelf, and governing the nation as his patrimony; and equally aſſert the rights of the people to put the government into ſuch a form as beſt pleaſes themſelves. This was ſuitable to what they had practiſed in their own country: "De minoribus conſultant principes, de majoribus omnes." Nay, even theſe "ſmaller matters" cannot be ſaid properly to relate to the king; for he is but one, and the word "principes" is in the plural number, and can only ſignify ſuch principal men, as the ſame author ſays were choſen by the general aſſemblies to do juſtice, &c. and to

SECT. 28.

Tacit. de mor. Germ.

* Exempti oneribus & collationibus, & tantum in uſum præliorum repoſiti, veluti tela & arma bellis reſervantur. Corn. Tacit. de morib. Germ.

each

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each of them one hundred comites joined, not only to give advice, but authority to their actions.

The word "omnes," ſpoken by a Roman, muſt likewiſe be underſtood as it was uſed by them, and imports all the citizens, or ſuch as made up the body of the commonwealth. If he had ſpoken of Rome or Athens whilſt they remained free, he muſt have uſed the ſame word (becauſe all thoſe, of whom the city conſiſted, had votes), how great ſoever the number of ſlaves or ſtrangers might have been. The Spartans are rightly ſaid to have gained, loſt, and recovered, the lordſhip or principality of Greece. They were all lords in relation to their helots, and ſo were the Dorians in relation to that ſort of men, which under ſeveral names they kept, as the Saxons did their villains, for the performance of the offices which they thought too mean for thoſe, who were ennobled by liberty, and the uſe of arms, by which the commonwealth was defended and enlarged. Tho' the Romans ſcorned to give the title of lord to thoſe, who had uſurped a power over their lives and fortunes; yet every one of them was a lord in relation to his own ſervants, and all together are often called "* lords of the world:" the like is ſeen almoſt every-where. The government of Venice, having continued for many ages in the ſame families, has ennobled them all. No phraſe is more common in Switzerland, than "the lords of Bern," or "the lords of Zurich," and other places, tho' perhaps there is not a man amongſt them, who pretends to be a gentleman, according to the modern ſenſe put upon that word. The ſtates of the United Provinces are called high and mighty lords, and the ſame title is given to each of them in particular. Nay, the word heer, which ſignifies lord both in high and low Dutch, is as common as monſieur in France, ſignor in Italy, or ſennor in Spain; and is given to every one, who is not of a ſordid condition, but eſpecially to ſoldiers: and tho' a common ſoldier be now a much meaner thing than it was antiently, no man ſpeaking to a company of ſoldiers in Italian, uſes any other ſtyle than "ſignori ſoldati;" and the like is done in other languages. It is not therefore to be thought ſtrange, if the Saxons, who in their own country had ſcorned any other employment than that of the ſword, ſhould think themſelves farther ennobled, when by their arms they had acquired a great and rich country, and driven out or ſubdued the former inhabitants. They might well diſtinguiſh themſelves from the villains they brought with them, or the Britons they had enſlaved. They might well be called "magnates, proceres regni, nobiles, "Angliæ nobilitas, barones;" and the aſſemblies of them juſtly called "concilium regni generale, univerſitas totius Angliæ nobilium, uni-"verſitas baronagii," according to the variety of times, and other occurrences. We have ſuch footſteps remaining of the name of baron, as plainly ſhew the ſignification of it. The barons of London and the Cinque Ports are known to be only the freemen of thoſe places. In the petty court-barons, every man who may be of a jury is a baron. Theſe are noblemen; for there are noble nations as well as noble men in nations. The Mammalukes accounted themſelves to be all noble, tho' born ſlaves; and when they had ennobled themſelves by

* Romanos rerum dominos. Virg.

by the uſe of arms, they looked upon the nobleſt of the Egyptians, as their ſlaves. Tertullian writing, not to ſome eminent men, but to the whole people of Carthage, calls them, "antiquitate nobiles, nobilitate felices." Such were the Saxons, ennobled by a perpetual application to thoſe exerciſes that belong to noblemen, and an abhorrence to any thing that is vile and ſordid. SECT. 29.

Leſt this ſhould ſeem far fetched, to thoſe who pleaſe themſelves with cavilling, they are to know, that the ſame general councils are expreſſed, by other authors, in other words. They are called "* The "general council of the biſhops, noblemen, counts, all the wiſe men, "elders, and people, of the whole kingdom," in the time of Ina. In that of Edward the elder, "† The great council of the biſhops, "abbots, noblemen, and people." William of Malmſbury calls them, "‖ The general ſenate and aſſembly of the people." Sometimes they are in ſhort, called "clergy and people;" but all expreſs the ſame power, neither received from, nor limitable by kings, who are always ſaid to be choſen, or made, and ſometimes depoſed by them. William the Norman found and left the nation in this condition: Henry the ſecond, John, and Henry the third, who had nothing but what was conferred upon them by the ſame clergy and people, did ſo too. Magna charta could give nothing to the people, who, in themſelves, had all; and only reduced into a ſmall volume, the rights which the nation was reſolved to maintain; brought the king to confeſs, they were perpetually inherent, and time out of mind enjoyed, and to ſwear that he would no way violate them: if he did, he was, "ipſo facto," excommunicated; and, being thereby declared to be an execrable perjured perſon, they knew how to deal with him. This act has been confirmed by thirty parliaments; and the proceedings with kings, who have violated their oaths, as well before as after the time of Henry the third, which have been already mentioned, are ſufficient to ſhew, that England has always been governed by itſelf, and never acknowledged any other lord, than ſuch as they thought fit to ſet up.

SECT. XXIX.

The king was never maſter of the ſoil.

THOSE who, without regard to truth, reſolve to inſiſt upon ſuch points, as they think may ſerve their deſigns, when they find it cannot be denied, that the powers before-mentioned have been exerciſed by the Engliſh, and other nations, ſay, that they were the conceſſions of kings, who, being maſters of the ſoil, might beſtow parcels upon ſome perſons, with ſuch conditions as they pleaſed, retaining to themſelves the ſupreme dominion of the whole: and, having

* Commune concilium epiſcoporum, procerum, comitum, & omnium ſapientum, ſeniorum & populorum totius regni. Bed. eccl. hiſt.

† Magnum concilium epiſcoporum, abbatum, fidelium, procerum, & populorum.

‖ Senatum generalem & populi conventum,

CHAP. III. already, as they think, made them the fountains of honour, they proceed to make them alſo the fountains of property; and, for proof of this, alledge, that all lands, tho' held of mean lords, do by their tenures at laſt reſult upon the king, as the head from whom they are enjoyed. This might be of force, if it were true: but matters of the higheſt importance requiring a moſt evident proof, we are to examine, firſt, if it be poſſible; and in the next place, if it be true.

1. For the firſt; no man can give what he has not. Whoever therefore will pretend, that the king has beſtowed this propriety, muſt prove, that he had it in himſelf. I confeſs, that the kings of Spain and Portugal obtained from the pope grants of the territories they poſſeſſed in the Weſt-Indies; and this might be of ſome ſtrength, if the pope, as vicar of Chriſt, had an abſolute dominion over the whole earth; but if that fail, the whole falls to the ground, and he is ridiculouſly liberal of that, which no way belongs to him. My buſineſs is not to diſpute that point; but, before it can have any influence upon our affairs, our kings are to prove, that they are lords of England upon the ſame title, or ſome other equivalent to it. When that is done, we ſhall know upon whom they have a dependence, and may at leiſure conſider, whether we ought to acknowledge, and ſubmit to, ſuch a power, or give reaſons for our refuſal. But, there being no ſuch thing in our preſent caſe, their property muſt be grounded upon ſomething elſe, or, we may juſtly conclude, they have none.

In order to this, it is hardly worth the pains, to ſearch into the obſcure remains of the Britiſh hiſtories: for when the Romans deſerted our iſland, they did not confer the right they had (whether more or leſs) upon any man, but left the enjoyment of it to the poor remainders of the nation, and their own eſtabliſhed colonies, who were grown to be one people with the natives. The Saxons came under the conduct of Hengiſt and Horſa, who ſeem to have been ſturdy pirates; but did not (that I can learn) bear any characters in their perſons, of the ſo much admired ſovereign majeſty, that ſhould give them an abſolute dominion or propriety, either in their own country, or any other they ſhould ſet their feet upon. They came with about
Mat. Weſtm. Flor. hiſt. a hundred men; and, chuſing rather to ſerve Vortigern, than to depend upon what they could get by rapine at ſea, lived upon a ſmall proportion of land, by him allotted to them. Tho' this ſeems to be but a ſlender encouragement, yet it was enough to invite many others to follow their example and fortune; ſo that their number increaſing, the county of Kent was given to them, under the obligation of ſerving the Britons in their wars. Not long after, lands in Northumberland were beſtowed upon another company of them, with the ſame condition. This was all the title they had to what they enjoyed,
Ibid. till they treacherouſly killed four hundred and ſixty, or, as William of Malmſbury ſays, three hundred principal men of the Britiſh nobility, and made Vortigern priſoner, who had been ſo much their benefactor, that he ſeems never to have deſerved well, but from them, and to have incenſed the Britons by the favour he ſhewed them, as much as by the worſt of his vices. And, certainly, actions of this kind, compoſed of falſhood and cruelty, can never create a right, in the opinion of any better men, than Filmer and his diſciples, who think

think that the power only is to be regarded, and not the means by which it is obtained. But, tho' it ſhould be granted, that a right had been thus acquired, it muſt accrue to the nation, not to Hengiſt and Horſa. If ſuch an acquiſition be called a conqueſt, the benefit muſt belong to thoſe that conquered. This was not the work of two men; and thoſe who had been free at home, can never be thought to have left their own country, to fight as ſlaves, for the glory and profit of two men in another. It cannot be ſaid, that their wants compelled them; for their leaders ſuffered the ſame, and could not be relieved, but by their aſſiſtance; and whether their enterprize was good or bad, juſt or unjuſt, it was the ſame to all: no one man could have any right, peculiar to himſelf, unleſs they who gained it, did confer it upon him: and it is no way probable, that they, who in their own country had kept their princes within very narrow limits, as has been proved, ſhould reſign themſelves, and all they had, as ſoon as they came hither. But we have already ſhewn, that they always continued moſt obſtinate defenders of their liberty, and the government to which they had been accuſtomed; that they managed it by themſelves, and acknowledged no other laws than their own. Nay, if they had made ſuch a reſignation of their right, as was neceſſary to create one in their leaders, it would be enough to overthrow the propoſition; for it is not then the leader that gives to the people, but the people to the leader. If the people had not a right to give what they did give, none was conferred upon the receiver; if they had a right, he that ſhould pretend to derive a benefit from thence, muſt prove the grant, that the nature and intention of it may appear. SECT. 29.

To the ſecond: if it be ſaid, that records teſtify all grants to have been originally from the king; I anſwer, that tho' it were confeſſed (which I abſolutely deny, and affirm that our rights and liberties are innate, inherent, and enjoyed time out of mind, before we had kings), it could be nothing to the queſtion, which is, concerning reaſon and juſtice; and, if they are wanting, the defect can never be ſupplied by any matter of fact, tho' never ſo clearly proved. Or, if a right be pretended to be grounded upon a matter of fact, the thing to be proved is, that the people did really confer ſuch a right upon the firſt, or ſome other kings: and, if no ſuch thing do appear, the proceedings of one or more kings, as if they had it, can be of no value. But, in the preſent caſe, no ſuch grant is pretended to have been made, either to the firſt, or to any of the following kings: the right they had not, their ſucceſſors could not inherit, and conſequently cannot have it, or, at moſt, no better title to it, than that of uſurpation.

But, as they who inquire for truth, ought not to deny or conceal any thing, I may grant that manors, &c. were enjoyed by tenure from kings; but that will no-way prejudice the cauſe I defend, nor ſignify more, than that the countries which the Saxons had acquired, were to be divided among them; and, to avoid the quarrels that might ariſe, if every man took upon him to ſeize what he could, a certain method of making the diſtribution was neceſſarily to be fixed; and it was fit, that every man ſhould have ſomething in his own hands, to

juſtify

CHAP. III. juſtify his title to what he poſſeſſed, according to which controverſies ſhould be determined. This muſt be teſtified by ſomebody, and no man could be ſo fit, or of ſo much credit, as he who was chief among them; and this is no more than is uſual in all the ſocieties of the world. The mayor of every corporation, the ſpeaker or clerk of the houſe of peers, or houſe of commons, the firſt preſident of every parliament, or preſidial in France; the conſul, burgermaſter, advoyer, or bailiff, in every free town of Holland, Germany, or Switzerland; ſign the public acts, that paſs in thoſe places. The dukes of Venice and Genoa do the like, tho' they have no other power, than what is conferred upon them, and, of themſelves, can do little or nothing. The grants of our kings are of the ſame nature, tho' the words "mero motu noſtro" ſeem to imply the contrary; for kings ſpeak always in the plural number, to ſhew that they do not act for themſelves, but for the ſocieties over which they are placed; and all the veneration that is, or can be, given to their acts, does not exalt them, but thoſe from whom their authority is derived, and for whom they are to execute. The tyrants of the Eaſt, and other barbarians, whoſe power is moſt abſolute, ſpeak in the ſingle number, as appears by the decrees of Nabuchodonoſor, Cyrus, Darius, and Ahaſuerus, recited in Scripture, with others that we hear of daily from thoſe parts: but, whereſoever there is any-thing of civility or regularity in government, the prince uſes the plural, to ſhew that he acts in a public capacity. From hence, ſays Grotius, the rights of kings to ſend ambaſſadors, make leagues, &c. do ariſe: the confederacies made by them do not terminate with their lives, becauſe they are not for themſelves; they ſpeak not in their own perſons, but as repreſenting their people: and "* a king who is deprived of his king-"dom, loſes the right of ſending ambaſſadors," becauſe he can no longer ſpeak for thoſe, who, by their own conſent, or by a foreign force, are cut off from him. The queſtion is, not whether ſuch a one be juſtly or unjuſtly deprived (for that concerns only thoſe who did it, or ſuffer it), but whether he can oblige the people; and it is ridiculous for any nation to treat with a man, that cannot perform what ſhall be agreed, or for him to ſtipulate that which can oblige, and, will be made good, only by himſelf.

De jur. bell.

But, tho' much may be left to the diſcretion of kings, in the diſtribution of lands, and the like, yet it no-way diminiſhes the right of the people, nor confers any upon them, otherwiſe to diſpoſe of what belongs to the public, than may tend to the common good, and, the accompliſhment of thoſe ends, for which they are entruſted. Nay, if it were true, that a conquered country did belong to the crown, the king could not diſpoſe of it, becauſe it is annexed to the office, and not alienable by the perſon. This is not only found in regular mixed monarchies (as in Sweden, where the grants made by the laſt kings have been lately reſcinded by the general aſſembly of eſtates, as contrary to law), but even in the moſt abſolute, as in France, where the preſent king, who has ſtretched his power to the utmoſt, has lately acknowledged, that he cannot do it; and, according to the known maxim

* Rex regno exutus, jus legandi amittit. Grot.

maxim of the ſtate, that the demeaſnes of the crown, which are deſigned for the defraying of public charges, cannot be alienated, all the grants made within the laſt fifteen years have been annulled; even thoſe who had bought lands of the crown have been called to account, and the ſums given being compared with the profits received, and a moderate intereſt allowed to the purchaſers, ſo much of the principal as remained due to them has been repaid, and the lands reſumed. SECT. 30.

SECT. XXX.

Henry the Firſt was king of England by as good a title as any of his predeceſſors or ſucceſſors.

HAVING made it appear, as I ſuppoſe, that the antient nobility of England was compoſed of ſuch men as had been ennobled by bearing arms in the defence or enlargement of the commonwealth; that the dukes, earls, &c. were thoſe who commanded them; that they and their dependents received lands for ſuch ſervices, under an obligation of continuing to render the like, and according to their ſeveral degrees and proportions, to provide and maintain horſes, arms, and men, for the ſame uſes; it cannot be denied, that they were ſuch gentlemen, and lords of manors, as we now call commoners, together with the freeholders, and ſuch as in war were found moſt able to be their leaders. Of theſe the micklegemots, wittenagemots, and other public aſſemblies, did conſiſt; and nothing can be more abſurd than to aſſign the names and rights of duke, earl, and viſcount, which were names of offices, to thoſe who have not the offices, and are no-way fit for them. If our author therefore had ſaid, that ſuch as theſe, who had always compoſed the great councils of our nation, had, in favour of Henry the Firſt, beſtowed the crown upon him, as they had done upon his father and brother, I ſhould agree with him: but it is the utmoſt extravagance to ſay, that he who had neither title nor poſſeſſion, ſhould give the power to thoſe who had always been in the poſſeſſion of it, and exerciſed it in giving to him whatſoever he had. But I moſt wonder he ſhould ſo far forget himſelf, to call this Henry a uſurper, and detract from the validity of his acts, becauſe he had no title; whereas there neither is, was, or can be, a uſurper, if there be any truth in his doctrine: for he plainly tells us, we are only to look to the power, and not at all to the means and ways by which it is obtained; and making no difference between a king and a tyrant, injoins an equal ſubmiſſion to the commands of both. If this were only a ſlip of his pen, and he did really take this Henry to be a uſurper, becauſe he had not a good title, I ſhould deſire to know the marks by which a lawful king is diſtinguiſhed from a uſurper, and in what a juſt title does conſiſt. If he place it in an hereditary ſucceſſion, we ought to be informed, whether this right muſt be deduced from one univerſal

CHAP. III. lord of mankind, or from a particular lord of every people: if from the univerſal lord, the ſame deſcent that gives him a rigt to the dominion of any one country, enſlaves the whole world to him: if from the particular lord of one place, proof muſt be given how he came to be ſo: for if there was a defect in the firſt, it can how be repaired, and the poſſeſſion is no more than a continued u never tion. But having already proved the abſurdity of any preteſurpaeither, I ſhall forbear the repetition, and only ſay, that if the courſe of ſucceſſion may never be juſtly interrupted, the family of Meroveus could not have had any right to the crown of France; Pepin was a uſurper, if it muſt for ever have continued in the deſcendents of Meroveus; and Hugh Capet could have no title, if the race of Pepin might not be diſpoſſeſſed. I leave our author to diſpute this point with the king of France; and when he has ſo far convinced him that he is a uſurper, as to perſuade him to reſign his crown to the houſe of Auſtria, claiming from Pharamond, or to that of Lorrain, as deſcended from Pepin, I can give him half a dozen more knots, which will not be with leſs difficulty untied, and which, inſtead of eſtabliſhing the titles of ſuch kings as are known to us, will overthrow them all, unleſs a right be given to uſurpation, or the conſent of a people do confer it.

But if there be ſuch a thing as a uſurper, and a rule by which men may judge of uſurpation, it is not only lawful, but neceſſary, for us to examine the titles of ſuch as go under the name of kings, that we may know whether they are truly ſo or not, leſt through ignorance we chance to give the veneration and obedience that is due to a king, to one who is not a king, and deny it to him, who by an uninterruptible line of deſcent is our natural lord, and thereby prefer the worſt of men, and our moſt bitter enemy, before the perſon we ought to look upon as our father: and if this prove dangerous to one or more kings, it is our author's fault, not mine.

If there be no uſurper, nor rule of diſtinguiſhing him from a lawful prince, Filmer is the worſt of all triflers and impoſtors, who grounds his arguments in the moſt ſerious matters upon what he eſteems to be falſe: but the truth is, he ſeems to have ſet himſelf againſt humanity and common ſenſe, as much as againſt law and virtue: and if he who ſo frequently contradicts himſelf, can be ſaid to mean any thing, he would authorize rapine and murder, and perſuade us to account thoſe to be rightful kings, who, by treachery, and other unjuſt means, overthrow the right of deſcent, which he pretends to eſteem ſacred, as well as the liberties of nations, which by better judges are thought to be ſo, and gives the odious name of uſurpation to the advancement of one who is made king by the conſent of a willing people.

But if Henry the Firſt were a uſurper, I deſire to know whether the ſame name belongs to all our kings, or which of them deſerves a better, that we may underſtand whoſe acts ought to be reputed legal, and to whoſe deſcent we owe veneration, or whether we are wholly exempted from all: for I cannot ſee a poſſibility of fixing the guilt of uſurpation upon Henry the Firſt, without involving many, if not all our kings, in the ſame.

If

If his title was not good, becauſe his brother Robert was ſtill living, that of Rufus is by the ſame reaſon overthrown; and William their father, being a baſtard, could have none. This fundamental defect could never be repaired; for the ſucceſſors could inherit no more than the right of the firſt, which was nothing. Stephen could deduce no title either from Norman or Saxon; whatſoever Henry the Second pretended muſt be from his mother Maud, and any other might have been preferred before her as well as he. If her title was from the Normans, it muſt be void, ſince they had none, and the ſtory of Edgar Atheling is too impertinent to deſerve mention. But, however, it could be of no advantage to her; for David king of Scotland, brother to her mother, from whom only her title could be derived, was then alive with his ſon Henry, who, dying not long after, left three ſons, and three daughters, whoſe poſterity, being diſtributed into many families of Scotland, remains to this day; and, if proximity of blood is to be conſidered, ought always to have been preferred before her, and her deſcendents, unleſs there be a law, that gives the preference to daughters before ſons. What right ſoever Henry the Second had, it muſt neceſſarily have periſhed with him, all his children having been begotten in manifeſt adultery, on Eleanor of Gaſcony, during the life of Lewis king of France her firſt huſband: and nothing could be alledged to colour the buſineſs, but a diſpenſation from the pope directly againſt the law of God, and the words of our Saviour, who ſays, "That a wife cannot be put away unleſs for adultery; and "he that marrieth her that is put away, committeth adultery." The pollution of this ſpring is not to be cured; but, tho' it ſhould paſs unregarded, no one part of the ſucceſſion ſince that time has remained intire. John was preferred before Arthur his elder brother's ſon: Edward the Third was made king by the depoſition of his father: Henry the Fourth by that of Richard the IId. If the houſe of Mortimer or York had the right, Henry the IVth, Vth, and VIth, were not kings, and all who claim under them have no title. However, Richard the Third could have none; for the children of his elder brother the duke of Clarence were then living. The children of Edward the Fourth may be ſuſpected of baſtardy; and tho' it may have been otherwiſe, yet that matter is not ſo clear as things of ſuch importance ought to be, and the conſequence may reach very far. But, tho' that ſcruple were removed, it is certain, that Henry the VIIth was not king in the right of his wife Elizabeth; for he reigned before and after her; and for his other titles we may believe Philip de Commines, who ſays, "He had neither croſs nor pile.*" If Henry the Eighth had a right in himſelf, or from his mother, he ſhould have reigned immediately after her death, which he never pretended, nor to ſucceed till his father was dead, thereby acknowledging he had no right but from him, unleſs the parliament and people can give it. The like may be ſaid of his children. Mary could have no title, if ſhe was a baſtard, begotten in inceſt; but if her mother's marriage was good, and ſhe legitimate, Elizabeth could have none.

SECT. 30.

Mem. de Commin.

Yet all theſe were lawful kings and queens; their acts continue

* Qui n'avoit ni croix, ni pille, ni nul droict, comme je croi, à la couronne d'Angleterre. Memoires livre vi. c. 9.

in

CHAP. III. in force to this day to all intents and purpoſes: the parliament and people made them to be ſo, when they had no other title. The parliament and people therefore have the power of making kings: thoſe who are ſo made are not uſurpers: we have had none but ſuch for more than ſeven hundred years. They were therefore lawful kings, or this nation has had none in all that time; and if our author like this concluſion, the account from whence it is drawn may without difficulty be carried as high as our Engliſh hiſtories do reach.

This being built upon the ſteady foundation of law, hiſtory, and reaſon, is not to be removed by any man's opinion; eſpecially by one, accompanied with ſuch circumſtances as Sir Walter Raleigh was in, during the laſt years of his life: and there is ſomething of baſeneſs, as well as prevarication, in turning the words of an eminent perſon, reduced to great difficulties, to a ſenſe no-way agreeing with his former actions or writings, and no leſs tending to impair his reputation than to deceive others. Our author is highly guilty of both, in citing Sir Walter Raleigh to invalidate the great charter of our liberties, as "begun by uſurpation, and ſhewed to the world by rebellion;" whereas no ſuch thing, nor any thing like it in word or principle, can be found in the works that deſerve to go under his name. The dialogue in queſtion, with ſome other ſmall pieces publiſhed after his death, deſerve to be eſteemed ſpurious: or if, from a deſire of life, when he knew his head lay under the ax, he was brought to ſay things no-way agreeing with what he had formerly profeſſed, they ought rather to be buried in oblivion, than produced to blemiſh his memory. But, that the public cauſe may not ſuffer by his fault, it is convenient the world ſhould be informed, that tho' he was a well qualified gentleman, yet his morals were no-way exact, as appears by his dealings with the brave earl of Eſſex. And he was ſo well aſſiſted in his "hiſtory of the world," that an ordinary man, with the ſame helps, might have performed the ſame things. Neither ought it to be accounted ſtrange, if that which he writ by himſelf had the tincture of another ſpirit, when he was deprived of that aſſiſtance, tho' his life had not depended upon the will of the prince, and he had never ſaid, That "* the bonds of ſubjects to their kings ſhould always be "wrought out of iron, and thoſe of kings to their ſubjects out of "cobwebs."

* See Sir W. Raleigh's epiſtle to king James.

SECT.

SECT. XXXI.

Free nations have a right of meeting, when and where they pleaſe, unleſs they deprive themſelves of it.

A Perverted judgment always leads men into a wrong way, and perſuades them to believe, that thoſe things favour their cauſe, that utterly overthrow it. For a proof of this, I deſire our author's words may be conſidered. "In the former parliaments," ſays he, "inſtituted "and continued ſince Henry the Firſt's time, is not to be found the "uſage of any natural liberty of the people: for all thoſe liberties "that are claimed in parliament, are liberties of grace from the king, "and not the liberties of nature to the people: for if the liberty were "natural, it would give power unto the multitude to aſſemble themſelves, when and where they pleaſed, to beſtow the ſovereignty, and "by pactions to limit and direct the exerciſe of it." And I ſay, that nations, being naturally free, may meet, when and where they pleaſe; may diſpoſe of the ſovereignty, and may direct or limit the exerciſe of it, unleſs by their own act they have deprived themſelves of that right: and there could never have been a lawful aſſembly of any people in the world, if they had not had that power in themſelves. It was proved in the preceding ſection, that all our kings, having no title, were no more than what the nobility and people made them to be; that they could have no power but what was given to them, and could confer none except what they had received. If they can therefore call parliaments, the power of calling them muſt have been given to them, and could not be given by any who had it not in themſelves. The Iſraelites met together, and choſe Ehud, Gideon, Samſon, Jephtha, and others, to be their leaders, whom they judged fit to deliver them from their enemies. By the ſame right they aſſembled at Miſpeth to make war againſt the tribe of Benjamin, when juſtice was denied to be done againſt thoſe who had villainouſly abuſed the Levite's concubine. In the like manner, they would have made Gideon king, but he refuſed. In the ſame place they met, and choſe Saul to be their king. He being dead, the men of Judah aſſembled themſelves, and anointed David: not long after, all the tribes met at Hebron, made a contract with him, and received him as their king. In the ſame manner, tho' by worſe counſel, they made Abſalom king. And the like was attempted in favour of Sheba the ſon of Bichri, tho' they then had a king choſen by themſelves. When they found themſelves oppreſſed by the tributes that had been laid upon them by Solomon, they met at Shechem; and being diſpleaſed with Rehoboam's anſwer to their complaints, ten of the tribes made Jeroboam king. Jehu, and all the other kings of Iſrael, whether good or bad, had no other title than was conferred upon them by the prevailing part of the people; which could not have given them any, unleſs they had met together; nor meet together without the conſent, and

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againſt the will of thoſe that reigned, unleſs the power had been in themſelves.

Where governments are more exactly regulated, the power of judging when it is fit to call the ſenate or people together, is referred to one or more magiſtrates; as in Rome to the conſuls or tribunes, in Athens to the archons, and in Thebes to the Bœotarches: but none of them could have theſe powers, unleſs they had been given by thoſe who advanced them to the magiſtracies to which they were annexed; nor could they have been ſo annexed, if thoſe who created them had not had the right in themſelves. If theſe officers neglected their duty of calling ſuch aſſemblies when the public affairs required, the people met by their own authority, and puniſhed the perſon, or abrogated the magiſtracy, as appears in the caſe of the decemviri, and many others that might be alledged, if the thing were not ſo plain as to need no further proof. The reaſon of this is, that they who inſtitute a magiſtracy, beſt know whether the end of the inſtitution be rightly purſued or not: and all juſt magiſtracies being the ſame in eſſence, tho' differing in form, the ſame right muſt perpetually belong to thoſe who put the ſovereign power into the hands of one, a few, or many men, which is what our author calls the diſpoſal of the ſovereignty. Thus the Romans did when they created kings, conſuls, military tribunes, dictators, or decemviri: and it had been moſt ridiculous to ſay, that thoſe officers gave authority to the people to meet and chuſe them; for they who are choſen are the creatures of thoſe who chuſe, and are nothing more than others till they are choſen. The laſt king of Sweden, Charles Guſtavus, told a gentleman who was ambaſſador there, that the Swedes having made him king, when he was poor, and had nothing in the world, he had but one work to do, which was ſo to reign, that they might never repent the good opinion they had conceived of him. They might therefore meet, and did meet to confer the ſovereignty upon him, or he could never have had it: for tho' the kingdom be hereditary to males or females, and his mother was ſiſter to the great Guſtavus; yet having married a ſtranger without the conſent of the eſtates, ſhe performed not the condition upon which women are admitted to the ſucceſſion; and thereby falling from her right, he pretended not to any. The act of his election declares he had none, and gives the crown to him, and the heirs of his body, with this farther declaration, that the benefit of his election ſhould no-way extend to his brother prince Adolphus; and it is confeſſed by all the Swediſh nation, that if the king now reigning ſhould die without children, the eſtates would proceed to a new election.

It is rightly obſerved by our author, that if the people might meet, and give the ſovereign power, they might alſo direct and limit it; for they did meet in this and other countries, they did confer the ſovereign power, they did limit and direct the exerciſe; and the laws of each people ſhew in what manner and meaſure it is every-where done. This is as certain in relation to kings, as any other magiſtrates. The commiſſion of the Roman dictators was, to take care "* that the "common-

* Ne quid detrimenti reſpublica accipiat. T. Liv.

" commonwealth might receive no detriment." The ſame was ſome- SECT. 31.
times given to the conſuls: king Offa's confeſſion, that he was made king " * to preſerve the public liberty," expreſſes the ſame thing: and Charles Guſtavus, who ſaid he had no other work, than to govern in ſuch a manner, that they who had made him king might not repent, ſhewed there was a rule which he ſtood obliged to follow, and an end which he was to procure, that he might merit and preſerve their good opinion. This power of conferring the ſovereignty was exerciſed in France by thoſe who made Meroveus king, in the prejudice of the two grandchildren of Pharamond ſons to Clodion; by thoſe who excluded his race, and gave the crown to Pepin; by thoſe who depoſed Lewis le Debonair, and Charles le Gros; by thoſe who brought in five kings, that were either baſtards or ſtrangers, between him and Charles le Simple; by thoſe who rejected his race, and advanced Hugh Capet; by thoſe who made Henry the Firſt king, to the prejudice of Robert his elder brother, and continued the crown in the race of Henry for ten generations, whilſt the deſcendents of Robert were only dukes of Burgundy. The like was done in Caſtile and Arragon, by frequently preferring the younger before the elder brother; the deſcendents of females before thoſe of the male line in the ſame degree; the more remote in blood before the neareſt; and ſometimes baſtards before the legitimate iſſue. The ſame was done in England in relation to every king, ſince the coming in of the Normans, as I ſhewed in the laſt ſection, and other places of this work.

That they who gave the ſovereignty, might alſo circumſcribe and direct it, is manifeſt by the ſeveral ways of providing for the ſucceſſion inſtituted by ſeveral nations. Some are merely elective, as the empire of Germany, and the kingdom of Poland, to this day; the kingdom of Denmark till the year 1660; that of Sweden till the time of Guſtavus Ericſon, who delivered that nation from the oppreſſion of Chriſtiern the Second, the cruel king of the Danes. In others the election was confined to one or more families, as the kingdom of the Goths in Spain to the Balthei and Amalthei. In ſome, the eldeſt man of the reigning family was preferred before the neareſt, as in Scotland before the time of Kennethus. In other places the neareſt in blood is preferred before the elder, if more remote. In ſome, no regard is had to females, or their deſcendents, as in France and Turky. In others, they or their deſcendents are admitted, either ſimply, as well as males; or under a condition of marrying in the country, or with the conſent of the eſtates, as in Sweden. And no other reaſon can be given for this almoſt infinite variety of conſtitutions, than that they who made them would have it ſo; which could not be, if God and nature had appointed one general rule for all nations. For in that caſe, the kingdom of France muſt be elective, as well as that of Poland and the empire; or the empire and Poland hereditary, as that of France: daughters muſt ſucceed in France, as well as in England, or be excluded in England, as in France; and he that would eſtabliſh one as the ordinance of God and nature, muſt neceſſarily overthrow all the reſt.

* In veſtræ libertatis tuitionem. Mat. Par.

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A farther exerciſe of the natural liberty of nations is diſcovered in the ſeveral limitations put upon the ſovereign power. Some kings, ſays Grotius, have the "ſummum imperium ſummo modo;" others, "modo non ſummo:" and amongſt thoſe that are under limitations, the degrees, as to more or leſs, are almoſt infinite, as I have proved already by the example of Arragon, antient Germany, the Saxon kings, the Normans, the kings of Caſtile, the preſent empire, with divers others. And I may ſafely ſay, that the antient government of France was much of the ſame nature to the time of Charles the VIIth, and Lewis the XIth; but the work of emancipating themſelves, as they call it, begun by them, is now brought to perfection in a boundleſs elevation of the king's greatneſs and riches, to the unſpeakable miſery of the people.

De jur. beli & pac.

It were a folly to think this variety proceeds from the conceſſions of kings, who naturally delight in power, and hate that which croſſes their will. It might with more reaſon be imagined, that the Roman conſuls, who were brought up in liberty, who had contracted a love to their country, and were contented to live upon an equal foot with their fellow-citizens, ſhould confine the power of their magiſtracy to a year; or that the dukes of Venice ſhould be graciouſly pleaſed to give power to the "council of ten" to puniſh them capitally, if they tranſgreſſed the laws, than that kings ſhould put ſuch fetters upon their power, which they ſo much abhor; or that they would ſuffer them, if they could be eaſily broken. If any one of them ſhould prove ſo moderate, like Trajan, to command the prefect of the Prætorian guard to uſe the ſword for him, if he governed well; and againſt him, if he did not; it would ſoon be reſcinded by his ſucceſſor: the law which has no other ſtrength than the act of one man, may be annulled by another. So that nothing does more certainly prove, that the laws made in ſeveral countries to reſtrain the power of kings, and variouſly to diſpoſe of the ſucceſſion, are not from them, than the frequent examples of their fury, who have expoſed themſelves to the greateſt dangers, and brought infinite miſeries upon the people, through the deſire of breaking them. It muſt therefore be concluded, that nations have power of meeting together, and of conferring, limiting, and directing the ſovereignty; or all muſt be grounded upon moſt manifeſt injuſtice and uſurpation.

No man can have a power over a nation otherwiſe than "de jure," or "de facto." He who pretends to have a power "de jure," muſt prove that it is originally inherent in him, or his predeceſſor, from whom he inherits; or that it was juſtly acquired by him. The vanity of any pretence to an original right appears ſufficiently, I hope, from the proofs already given, that the firſt fathers of mankind had it not; or if they had, no man could now inherit the ſame, there being no man able to make good the genealogy that ſhould give him a right to the ſucceſſion. Beſides, the facility we have of proving the beginnings of all the families that reign among us, makes it as abſurd for any of them to pretend a perpetual right to dominion, as for any citizen of London, whoſe parents and birth we know, to ſay he is the very man Noah, who lived in the time of the flood, and is now four or five thouſand years old.

If

If the power were conferred on him or his predeceſſors, it is what we aſk; for the collation can be of no value, unleſs it be made by thoſe who had a right to do it; and the original right by deſcent failing, no one can have any over a free people but themſelves, or thoſe to whom they have given it. SECT. 26.

If acquiſition be pretended, it is the ſame thing; for there can be no right to that which is acquired, unleſs the right of invading be proved; and that being done, nothing can be acquired except what belonged to the perſon that was invaded, and that only by him who had the right of invading. No man ever did or could conquer a nation by his own ſtrength; no man therefore could ever acquire a perſonal right over any; and if it was conferred upon him by thoſe who made the conqueſt with him, they were the people that did it. He can no more be ſaid to have the right originally in and from himſelf, than a magiſtrate of Rome or Athens immediately after his creation; and having no other at the beginning, he can have none to eternity; for the nature of it muſt refer to the original, and cannot be changed by time.

Whatſoever therefore proceeds not from the conſent of the people, muſt be "de facto" only, that is, void of all right; and it is impoſſible there ſhould not be a right of deſtroying that which is grounded upon none; and by the ſame rule that one man enjoys what he gained by violence, another may take it from him. Cyrus overthrew the Aſſyrians and Babylonians, Alexander the Medes and Perſians; and if they had no right of making war upon thoſe nations, the nations could not but have a right of recovering all that had been unjuſtly taken from them, and avenging the evils they had ſuffered. If the cauſe of the war was originally juſt, and not corrupted by an intemperate uſe of the victory, the conquered people was perhaps obliged to be quiet; but the conquering armies, that had conferred upon their generals what they had taken from their enemies, might as juſtly expect an account of what they had given, and that it ſhould be employed according to the intention of the givers, as the people of any city might do from their regularly created magiſtrates; becauſe it was as impoſſible for Cyrus, Alexander, or Cæſar, to gain a power over the armies they led, without their conſent, as for Pericles, Valerius, or any other diſarmed citizen, to gain more power in their reſpective cities than was voluntarily conferred upon them. And I know no other difference between kingdoms ſo conſtituted by conquering armies, and ſuch as are eſtabliſhed in the moſt orderly manner, than that the firſt uſually incline more to war and violence, the latter to juſtice and peace. But there have not been wanting many of the firſt ſort (eſpecially the nations coming from the north) who were no leſs exact in ordaining that which tended to the preſervation of liberty, nor leſs ſevere in ſeeing it punctually performed, than the moſt regular commonwealths that ever were in the world. And it can with no more reaſon be pretended, that the Goths received their privileges from Alan or Theodoric, the Francs from Pharamond or Meroveus, and the Engliſh from Ina or Ethelred, than that the liberty of Athens was the gift of Themiſtocles or Pericles, that the empire of Rome proceeded from the liberality of Brutus or Valerius, and that the

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commonwealth of Venice, at this day, ſubſiſts by the favour of the Contarini or Moreſini: which muſt reduce us to matter of right, ſince that of fact, void of right, can ſignify nothing.

SECT. XXXII.

The powers of kings are ſo various, according to the conſtitutions of ſeveral ſtates, that no conſequence can be drawn to the prejudice or advantage of any one, merely from the name.

IN oppoſition to what is above ſaid, ſome alledge the name of king, as if there were a charm in the word; and our author ſeems to put more weight upon it, than in the reaſons he brings to ſupport his cauſe. But that we may ſee there is no efficacy in it, and that it conveys no other right than what particular nations may annex to it, we are to conſider,

1. That the moſt abſolute princes that are or have been in the world, never had the name of king; whereas it has been frequently given to thoſe whoſe powers have been very much reſtrained. The Cæſars were never called kings, till the ſixth age of chriſtianity: the califs and ſoldan of Egypt and Babylon, the Great Turk, the cham of Tartary, or the Great Mogol, never took that name, or any other of the ſame ſignification. The czar of Moſcovy has it not, tho' he is as abſolute a monarch, and his people as miſerable ſlaves, as any in the world. On the other ſide, the chief magiſtrates of Rome and Athens for ſome time, thoſe of Sparta, Arragon, Sweden, Denmark, and England, "who could do nothing but by law," have been called kings. This may be enough to ſhew, that a name being no way eſſential, what title ſoever is given to the chief magiſtrate, he can have no other power than the laws and cuſtoms of his country do give, or the people confer upon him.

2. The names of magiſtrates are often changed, tho' the power continue to be the ſame; and the powers are ſometimes altered tho' the name remain. When Octavius Cæſar, by the force of a mad corrupted ſoldiery, had overthrown all law and right, he took no other title in relation to military affairs than that of "imperator," which in the time of liberty was by the armies often given to prætors and conſuls: in civil matters he was, as he pretended, * content with the power of tribune; and the like was obſerved in his ſucceſſor, who to new-in-

C. Tacit. vented uſurpations "gave old and approved names." On the other ſide, thoſe titles which have been rendered odious and execrable by the violent exerciſe of an abſolute power, are ſometimes made popular by moderate limitations; as in Germany, where, tho' the monarchy ſeem to be as well tempered as any, the princes retain the ſame names of "imperator, Cæſar," and "Auguſtus," as thoſe had done, who by the exceſs of

* Tribunitia poteſtate contentus. C. Tacit.

of their rage and fury had deſolated and corrupted the beſt part of the world. SECT. 32.

Sometimes the name is changed, tho' the power in all reſpects continue to be the ſame. The lords of Caſtile had for many ages no other title than that of count; and when the nobility and people thought good, they changed it to that of king, without any addition to the power. Saavedra, Mariana, Zurita.

The ſovereign magiſtrate in Poland was called duke till within the laſt two hundred years, when they gave the title of king to one of the Jagellan family; which title has continued to this day, tho' without any change in the nature of the magiſtracy. And I preſume, no wiſe man will think, that if the Venetians ſhould give the name of king to their duke, it could confer any other power upon him, than he has already, unleſs more ſhould be conferred by the authority of the great council.

3. The ſame names which in ſome places denote the ſupreme magiſtracy, in others are ſubordinate, or merely titular. In England, France, and Spain, dukes and earls are ſubjects: in Germany, the electors and princes who are called by thoſe names are little leſs than ſovereigns; and the dukes of Savoy, Tuſcany, Muſcovy, and others, acknowledge no ſuperior, as well as thoſe of Poland and Caſtile had none, when they went under thoſe titles. The ſame may be ſaid of kings. Some are ſubject to a foreign power, as divers of them were ſubject to the Perſian and Babylonian monarchs, who for that reaſon were called the kings of kings. Some alſo are tributaries; and when the Spaniards firſt landed in America, the great kings of Mexico and Peru had many others under them. Threeſcore and ten kings gathered up meat under the table of Adonibezek. The Romans had many kings depending upon them. Herod and thoſe of his race were of this number; and the diſpute between him and his ſons Ariſtobulus and Alexander, was to be determined by them; neither durſt he decide the matter till it was referred to him. But a right of appeal did ſtill remain, as appears by the caſe of St. Paul, when Agrippa was king. The kings of Mauritania from the time of Maſiniſſa, were under the like dependence: Jugurtha went to Rome to juſtify himſelf for the death of Micipſa: Juba was commanded by the Roman magiſtrates Scipio, Petreius, and Afranius: another Juba was made king of the ſame country by Auguſtus, and Tiridates of Armenia by Nero; and infinite examples of this nature may be alledged. Moreover, their powers are variouſly regulated, according to the variety of tempers in nations and ages. Some have reſtrained the powers that by experience were found to be exorbitant; others have diſſolved the bonds that were laid upon them: and laws relating to the inſtitution, abrogation, enlargement, or reſtriction of the regal power, would be utterly inſignificant, if this could not be done. But ſuch laws are of no effect in any other country than where they are made. The lives of the Spartans did not depend upon the will of Ageſilaus or Leonidas, becauſe Nabuchodonoſor could kill or ſave whom he pleaſed: and tho' the king of Morocco may ſtab his ſubjects, throw them to the lions, or hang them upon tenterhooks; yet a king of Poland would probably be called to a ſevere account, if he ſhould unjuſtly kill a ſingle man.

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SECT. XXXIII.

The liberty of a people is the gift of God and nature.

IF any man aſk, how nations come to have the power of doing theſe things, I anſwer, that liberty being only an exemption from the dominion of another, the queſtion ought not to be, how a nation can come to be free, but how a man comes to have a dominion over it; for till the right of dominion be proved and juſtified, liberty ſubſiſts, as ariſing from the nature and being of a man. Tertullian, ſpeaking of the emperors, ſays, "ab eo imperium, a quo ſpiritus;" and we, taking man in his firſt condition, may juſtly ſay, "ab eo libertas, a "quo ſpiritus;" for no man can owe more than he has received. The creature having nothing, and being nothing but what the Creator makes him, muſt owe all to him, and nothing to any one from whom he has received nothing. Man therefore muſt be naturally free, unleſs he be created by another power than we have yet heard of. The obedience due to parents ariſes from hence, in that they are the inſtruments of our generation; and we are inſtructed by the light of reaſon, that we ought to make great returns to thoſe from whom under God we have received all. When they die, we are their heirs, we enjoy the ſame rights, and devolve the ſame to our poſterity. God only, who confers this right upon us, can deprive us of it: and we can no-way underſtand that he does ſo, unleſs he had ſo declared by expreſs revelation, or had ſet ſome diſtinguiſhing marks of dominion and ſubjection upon men; and, as an ingenious perſon not long ſince ſaid, cauſed ſome to be born with crowns upon their heads, and all others with ſaddles upon their backs. This liberty therefore muſt continue, till it be either forfeited, or willingly reſigned. The forfeiture is hardly comprehenſible in a multitude, that is not entered into any ſociety; for as they are all equal, and "* equals can have "no right over each other," no man can forfeit any thing to one, who can juſtly demand nothing, unleſs it may be by a perſonal injury, which is nothing to this caſe; becauſe where there is no ſociety, one man is not bound by the actions of another. All cannot join in the ſame act, becauſe they are joined in none; or if they ſhould, no man could recover, much leſs tranſmit the forfeiture; and not being tranſmitted, it periſhes, as if it had never been, and no man can claim any thing from it.

It will be no leſs difficult to bring reſignation to be ſubſervient to our author's purpoſe; for men could not reſign their liberty, unleſs they naturally had it in themſelves. Reſignation is a public declaration of their aſſent to be governed by the perſon to whom they reſign; that is, they do by that act conſtitute him to be their governor. This neceſſarily puts us upon the inquiry, why they do reſign, how they

* Par in parem non habet imperium.

they will be governed, and proves the governor to be their creature; and the right of diſpoſing the government muſt be in them, or they who receive it can have none. This is ſo evident to common ſenſe, that it were impertinent to aſk who made Carthage, Athens, Rome, or Venice, to be free cities. Their charters were not from men, but from God and nature. When a number of Phenicians had found a port on the coaſt of Africa, they might perhaps agree with the inhabitants for a parcel of ground; but they brought their liberty with them. When a company of Latins, Sabines, and Tuſcans, met together upon the banks of the Tiber, and choſe rather to build a city for themſelves, than to live in ſuch as were adjacent, they carried their liberty in their own breaſts, and had hands and ſwords to defend it. This was their charter; and Romulus could confer no more upon them, than Dido upon the Carthaginians. When a multitude of barbarous nations infeſted Italy, and no protection could be expected from the corrupted and periſhing empire, ſuch as agreed to ſeek a place of refuge in the ſcattered iſlands of the Adriatic gulf, had no need of any man's authority, to ratify the inſtitution of their government. They who were the formal part of the city, and had built the material, could not but have a right of governing it as they pleaſed, ſince, if they did amiſs, the hurt was only to themſelves. It is probable enough, that ſome of the Roman emperors, as lords of the ſoil, might have pretended to a dominion over them, if there had been any colour for it: but nothing of that kind appearing in thirteen hundred years, we are not like to hear of any ſuch cavils. It is agreed by mankind, that ſubjection and protection are relative; and that he who cannot protect thoſe that are under him, in vain pretends to a dominion over them. The only ends for which governments are conſtituted, and obedience rendered to them, are the obtaining of juſtice and protection; and they who cannot provide for both, give the people a right of taking ſuch ways as beſt pleaſe themſelves, in order to their own ſafety. SECT. 33.

The matter is yet more clear in relation to thoſe who never were in any ſociety, as at the beginning, or renovation of the world after the flood; or who, upon the diſſolution of the ſocieties to which they did once belong, or by ſome other accident, have been obliged to ſeek new habitations. Such were thoſe who went from Babylon upon the confuſion of tongues; thoſe who eſcaped from Troy when it was burnt by the Grecians; almoſt all the nations of Europe, with many of Aſia and Africa, upon the diſſolution of the Roman empire. To which may be added, a multitude of Northern nations, who, when they had increaſed to ſuch numbers, that their countries could no longer nouriſh them, or becauſe they wanted ſkill to improve their lands, were ſent out to provide for themſelves; and having done ſo, did erect many kingdoms and ſtates, either by themſelves, or in union and coalition with the antient inhabitants.

It is in vain to ſay, that whereſoever they came, the land did belong to ſomebody; and that they who came to dwell there, muſt be ſubject to the laws of thoſe who were lords of the ſoil; for that is not always true in fact. Some come into deſart countries that have no lord, others into ſuch as are thinly peopled, by men who, know-

ing not how to improve their land, do either grant part of it upon eaſy terms to the new comers, or grow into a union with them in the enjoyment of the whole; and hiſtories furniſh us with infinite examples of this nature.

If we will look into our own original, without troubling ourſelves with the ſenſeleſs ſtories of Samothes the ſon of Japhet, and his magicians, or the giants begotten by ſpirits upon the thirty daughters of Danaus ſent from Phenicia in a boat without ſail, oars, or rudder, we ſhall find, that when the Romans abandoned this iſland, the inhabitants were left to a full liberty of providing for themſelves: and whether we deduce our original from them, or the Saxons, or from both, our anceſtors were perfectly free; and the Normans having inherited the ſame right when they came to be one nation with the former, we cannot but continue ſo ſtill, unleſs we have enſlaved ourſelves.

Nothing is more contrary to reaſon, than to imagine this. When the fierce barbarity of the Saxons came to be ſoftened by a more gentle climate, the arts and religion they learnt, taught them to reform their manners, and better enabled them to frame laws for the preſervation of their liberty, but no-way diminiſhed their love to it: and tho' the Normans might deſire to get the lands of thoſe who had joined with Harold, and of others, into their hands; yet when they were ſettled in the country, and by marriages united to the antient inhabitants, they became true Engliſhmen, and no leſs lovers of liberty, and reſolute defenders of it, than the Saxons had been. There was then neither conquering Norman, nor conquered Saxon, but a great and brave people compoſed of both, united in blood and intereſt in the defence of their common rights, which they ſo well maintained, that no prince ſince that time has too violently encroached upon them, who, as the reward of his folly, has not lived miſerably, and died ſhamefully.

Such actions of our anceſtors do not, as I ſuppoſe, ſavour much of the ſubmiſſion which patrimonial ſlaves do uſually render to the will of their lord. On the contrary, whatſoever they did was by a power inherent in themſelves to defend that liberty in which they were born. All their kings were created upon the ſame condition, and for the ſame ends. Alfred acknowledged he found and left them perfectly free; and the confeſſion of Offa, that they had not made him king for his own merits, but for the defence of their liberty, comprehends all that were before and after him. They well knew how great the honour was, to be made head of a great people; and rigorouſly exacted the performance of the ends for which ſuch a one was elevated, ſeverely puniſhing thoſe who baſely and wickedly betrayed the truſt repoſed in them, and violated all that is moſt ſacred among men; which could not have been, unleſs they were naturally free; for the liberty that has no being, cannot be defended.

SECT.

SECT. XXXIV.

No veneration paid, or honour conferred upon a juſt and lawful magiſtrate, can diminiſh the liberty of a nation.

SOME have ſuppoſed, that tho' the people be naturally free, and magiſtrates created by them, they do by ſuch creations deprive themſelves of that natural liberty; and that the names of "king, ſo-"vereign lord," and "dread ſovereign," being no way conſiſtent with liberty, they who give ſuch titles do renounce it. Our author carries this very far, and lays great weight upon the ſubmiſſive language uſed by the people, when they "humbly crave, that his majeſty would be "pleaſed to grant their accuſtomed freedom of ſpeech, and acceſs to "his perſon;" and "give the name of ſupplications and petitions to "the addreſſes made to him:" whereas he anſwers in the haughty language of "Le roy le veut, Le roy s'aviſera," and the like. But they who talk at this rate, ſhew, that they neither underſtand the nature of magiſtracy, nor the practice of nations. Thoſe who have lived in the higheſt exerciſe of their liberty, and have been moſt tenacious of it, have thought no honour too great for ſuch magiſtrates as were eminent in the defence of their rights, and were ſet up for that end. The name of dread ſovereign might juſtly have been given to a Roman dictator, or conſul; for they had the ſovereign authority in their hands, and power ſufficient for its execution. Whilſt their magiſtracy continued, they were a terror to the ſame men, whoſe axes and rods had been a terror to them the year or month before, and might be ſo again the next. The Romans thought they could not be guilty of exceſs in carrying the power and veneration due to their dictator to the higheſt: and Livy tells us, that his "* edicts were "eſteemed ſacred. "I have already ſhewn, that this haughty people, who might have commanded, condeſcended to join with their tribunes in a petition to the dictator Papirius for the life of Quintus Fabius, who had fought a battle in his abſence, and without his order, tho' he had gained a great and memorable victory. The ſame Fabius, when conſul, was commended by his father Q. Fabius Maximus, for obliging him, by his lictors, to diſmount from his horſe, and to pay him the ſame reſpect that was due from others. The tribunes of the people, who were inſtituted for the preſervation of liberty, were alſo eſteemed ſacred and inviolable, as appears by that phraſe, "ſacroſancta tribunorum poteſtas," ſo common in their antient writers. No man, I preſume, thinks any monarchy more limited, or more clearly derived from a delegated power, than that of the German emperors; and yet "ſacra Cæſarea majeſtas" is the public ſtile. Nay, the Hollanders at this day call their burgermaſters, tho' they

* Edictum dictatoris pro numine obſervatum. Hiſt. l. 8.

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they ſee them ſelling herring or tar, " high and mighty lords," as ſoon as they are advanced to be of the 36, 42, or 48 magiſtrates of a ſmall town. It is no wonder therefore, if a great nation ſhould think it conducing to their own glory, to give magnificent titles, and uſe ſubmiſſive language, to that one man, whom they ſet up to be their head; moſt eſpecially, if we conſider, that they came from a country where ſuch titles and language were principally invented.

Among the Romans and Grecians we hear nothing of majeſty, highneſs, ſerenity, and excellence, appropriated to a ſingle perſon; but receive them from Germany, and other Northern countries. We find " majeſtas populi Romani," and " majeſtas imperii," in their beſt authors; but no man, ſpeaking to Julius or Auguſtus, or even to the vaineſt of their ſucceſſors, ever uſed thoſe empty titles, nor took upon themſelves the name of ſervants, as we do to every fellow we meet in the ſtreets. When ſuch ways of ſpeaking are once introduced, they muſt needs ſwell to a more than ordinary height in all tranſactions with princes. Moſt of them naturally delight in vanity, and courtiers never ſpeak more truth, than when they moſt extol their maſters, and aſſume to themſelves the names that beſt expreſs the moſt abject ſlavery. Theſe, being brought into mode, like all ill cuſtoms, increaſe by uſe; and then no man can omit them without bringing that hatred and danger upon himſelf, which few will undergo, except for ſomething that is evidently of great importance. Matters of ceremony and title, at the firſt, ſeem not to be ſo; and, being for ſome time neglected, they acquire ſuch ſtrength as not to be eaſily removed. From private uſage they paſs into public acts; and thoſe flatterers who gave a beginning to them, propoſing them in public councils, where too many of that ſort have always inſinuated themſelves, gain credit enough to make them paſs. This work was farther advanced by the church of Rome, according to their cuſtom of favouring that moſt, which is moſt vain and corrupt; and it has been uſual with the popes, and their adherents, liberally to gratify princes for ſervices rendered to the church, with titles that tended only to the prejudice of the people. Theſe poiſonous plants, having taken root, grew up ſo faſt, that the titles which, within the ſpace of a hundred years, were thought ſufficient for the kings and queens of England, have of late been given to Monk, and his honourable dutcheſs. New phraſes have been invented to pleaſe princes, or the ſenſe of the old perverted, as has happened to that of " Le roy s'aviſera:" and that which was no more than a liberty to conſult with the lords upon a bill preſented by the commons, is by ſome men now taken for a right inherent in the king, of denying ſuch bills as may be offered to him by the lords and commons; though the coronation-oath oblige him to hold, keep, and defend the juſt laws and cuſtoms, " quas vulgus elegerit." And, if a ſtop be not put to this exorbitant abuſe, the words ſtill remaining in acts of parliament, which ſhew that their acts are our laws, may perhaps be alſo aboliſhed.

But

But tho' this ſhould come to paſs, by the ſlackneſs of the lords and commons, it could neither create a new right in the king, nor diminiſh that of the people: But it might give a better colour to thoſe who are enemies to their country, to render the power of the crown arbitrary, than any-thing that is yet among us. SECT. 35.

SECT. XXXV.

The authority given by our law to the acts performed by a king de facto, detract nothing from the people's right of creating whom they pleaſe.

THEY who have more regard to the prevailing power than to right, and lay great weight upon the ſtatute of Henry the ſeventh, which authorizes the acts of a "king de facto," ſeem not to conſider, that thereby they deſtroy all right of inheritance; that he only is king "de facto," who is received by the people; and that this reception could neither be of any value in itſelf, nor be made valid by a ſtatute, unleſs the people, and their repreſentatives, who make the ſtatute, had in themſelves the power of receiving, authorizing, and creating, whom they pleaſe. For he is not king "de facto" who calls himſelf ſo, as Perkin or Simnel, but he who, by the conſent of the nation, is poſſeſſed of the regal power. If there were ſuch a thing in nature, as a natural lord over every country, and that the right muſt go by deſcent, it would be impoſſible for any other man to acquire it, or for the people to confer it upon him, and to give the authority to the acts of one, who neither is, nor can be, a king, which belongs only to him who has the right inherent in himſelf, and inſeparable from him. Neither can it be denied, that the ſame power which gives the validity to ſuch acts as are performed by one who is not a king, that belongs to thoſe of a true king, may alſo make him king; for the eſſence of a king conſiſts in the validity of his acts. And it is equally abſurd for one to pretend to be a king, whoſe acts as king are not valid, as that his own can be valid, if thoſe of another are; for then the ſame indiviſible right which our author, and thoſe of his principles, aſſert to be inſeparable from the perſon, would be at the ſame time exerciſed and enjoyed by two diſtinct and contrary powers.

Moreover, it may be obſerved, that this ſtatute was made, after frequent and bloody wars concerning titles to the crown; and whether the cauſe were good or bad, thoſe who were overcome, were not only ſubject to be killed in the field, but afterwards to be proſecuted as traitors under the colour of law. He who gained the victory, was always ſet up to be king by thoſe of his party; and he never failed to proceed againſt his enemies as rebels. This introduced a horrid ſeries of the moſt deſtructive miſchiefs. The fortune of war varied often; and I think it may be ſaid, that there were few, if any, great families in England, that were not either

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deſtroyed, or at leaſt ſo far ſhaken, as to loſe their chiefs, and many conſiderable branches of them: and experience taught, that inſtead of gaining any advantage to the public, in point of government, he for whom they fought, ſeldom proved better than his enemy. They ſaw that the like might again happen, tho' the title of the reigning king ſhould be as clear, as deſcent of blood could make it. This brought things into an uneaſy poſture; and it is not ſtrange, that both the nobility and commonalty ſhould be weary of it. No law could prevent the dangers of battle; for he that had followers, and would venture himſelf, might bring them to ſuch a deciſion, as was only in the hand of God. But thinking no more could juſtly be required to the full performance of their duty to the king, than to expoſe themſelves to the hazard of battle for him, and not being anſwerable for the ſucceſs, they would not have that law, which they endeavoured to ſupport, turned to their deſtruction by their enemies, who might come to be the interpreters of it. But as they could be exempted from this danger, only by their own laws, which could authorize the acts of a king without a title, and juſtify them for acting under him, it is evident, that the power of the law was in their hands, and that the acts of the perſon who enjoyed the crown, were of no value in themſelves. The law had been impertinent, if it could have been done without law; and the intervention of the parliament uſeleſs, if the kings "de facto" could have given authority to their own acts. But if the parliament could make that to have the effect of law, which was not law, and exempt thoſe that acted according to it from the penalties of the law, and give the ſame force to the acts of one who is not king, as of one who is, they cannot but have a power of making him to be king, who is not ſo; that is to ſay, all depends intirely upon their authority.

Beſides, he is not king who aſſumes the title to himſelf, or is ſet up by a corrupt party; but he who, according to the uſages required in the caſe, is made king. If theſe are wanting, he is neither "de facto," nor "de jure," but "tyrannus ſine titulo." Nevertheleſs, this very man, if he comes to be received by the people, and placed in the throne, he is thereby made king "de facto." His acts are valid in law; the ſame ſervice is due to him as to any other; they who render it are in the ſame manner protected by the law; that is to ſay, he is truly king. If our author therefore do allow ſuch to be kings, he muſt confeſs that power to be good, which makes them ſo, when they have no right in themſelves. If he deny it, he muſt not only deny, that there is any ſuch thing as a king "de facto," which the ſtatute acknowledges, but that we ever had any king in England; for we never had any other than ſuch, as I have proved before.

By the ſame means he will ſo unravel all the law, that no man ſhall know what he has, or what he ought to do or avoid; and will find no remedy for this, unleſs he allow, that laws made without kings are as good as thoſe made with them, which returns to my purpoſe: for they who have the power of making laws, may by law make a king as well as any other magiſtrate. And indeed the

the intention of this ſtatute could be no other than to ſecure mens perſons and poſſeſſions, and ſo far to declare the power of giving and taking away the crown to be in the parliament, as to remove all diſputes concerning titles, and to make him to be a legal king, whom they acknowledge to be king. SECT. 36.

SECT. XXXVI.

The general revolt of a nation cannot be called a rebellion.

AS impoſtors ſeldom make lies to paſs in the world, without putting falſe names upon things, ſuch as our author endeavour to perſuade the people they ought not to defend their liberties, by giving the name of rebellion, to the moſt juſt and honourable actions that have been performed for the preſervation of them; and, to aggravate the matter, fear not to tell us, that rebellion is like the ſin of witchcraft. But thoſe who ſeek after truth, will eaſily find, that there can be no ſuch thing in the world as the rebellion of a nation againſt its own magiſtrates, and that rebellion is not always evil. That this may appear, it will not be amiſs to conſider the word, as well as the thing underſtood by it, as it is uſed in an evil ſenſe.

The word is taken from the Latin "rebellare," which ſignifies no more than to renew a war. When a town or province had been ſubdued by the Romans, and brought under their dominion, if they violated their faith after the ſettlement of peace, and invaded their maſters, who had ſpared them, they were ſaid to rebel. But it had been more abſurd to apply that word to the people that roſe againſt the decemviri, kings, or other magiſtrates, than to the Parthians, or any of thoſe nations who had no dependence upon them; for all the circumſtances that ſhould make a rebellion were wanting, the word implying a ſuperiority in them againſt whom it is, as well as the breach of an eſtabliſhed peace. But tho' every private man, ſingly taken, be ſubject to the commands of the magiſtrate, the whole body of the people is not ſo; for he is by and for the people, and the people is neither by nor for him. The obedience due to him from private men, is grounded upon, and meaſured by, the general law; and that law, regarding the welfare of the people, cannot ſet up the intereſt of one or a few men againſt the public. The whole body therefore of a nation cannot be tied to any other obedience than is conſiſtent with the common good, according to their own judgment: and having never been ſubdued, or brought to terms of peace with their magiſtrates, they cannot be ſaid to revolt or rebel againſt them, to whom they owe no more than ſeems good to themſelves, and who are nothing of or by themſelves, more than other men.

Again, the thing ſignified by rebellion is not always evil: for, tho' every ſubdued nation muſt acknowledge a ſuperiority in thoſe who have ſubdued them, and rebellion do imply a breach of the peace; yet that ſuperiority is not infinite; the peace may be broken upon juſt grounds,

CHAP. III. grounds, and it may be neither a crime nor infamy to do it. The Privernates had been more than once ſubdued by the Romans, and T. Liv. l. 8. had as often rebelled. Their city was at laſt taken by Plautius the conſul, after their leader Vitruvius, and great numbers of their ſenate and people, had been killed: being reduced to a low condition, they ſent ambaſſadors to Rome to deſire peace; where, when a ſenator aſked them what puniſhment they deſerved, one of them anſwered, "The ſame which they deſerve, who think themſelves worthy of "liberty." The conſul then demanded, "what kind of peace might "be expected from them, if the puniſhment ſhould be remitted." The ambaſſador anſwered, "* If the terms you give be good, the "peace will be obſerved by us faithfully and perpetually; if bad, it "will ſoon be broken." And tho' ſome were offended with the ferocity of the anſwer; yet the beſt part of the ſenate approved it, as "† worthy of a man and a freeman;" and, confeſſing that no man or nation would continue under an uneaſy condition, longer than they were compelled by force, ſaid, "‖ They only were fit to be made Ro-"mans, who thought nothing valuable but liberty." Upon which they were all made citizens of Rome, and obtained whatſoever they had deſired.

I know not how this matter can be carried to a greater height; for if it were poſſible, that a people reſiſting oppreſſion, and vindicating their own liberty, could commit a crime, and incur either guilt or infamy, the Privernates did, who had been often ſubdued, and often pardoned; but, even in the judgment of their conquerors, whom they had offended, the reſolution they profeſſed of ſtanding to no agreement impoſed upon them by neceſſity, was accounted the higheſt teſtimony of ſuch a virtue as rendered them worthy to be admitted into a ſociety and equality with themſelves, who were the moſt brave and virtuous people of the world.

But if the patience of a conquered people may have limits, and they who will not bear oppreſſion from thoſe who had ſpared their lives, may deſerve praiſe and reward from their conquerors, it would be madneſs to think, that any nation can be obliged to bear whatſoever their own magiſtrates think fit to do againſt them. This may ſeem ſtrange to thoſe who talk ſo much of conqueſts made by kings; immunities, liberties, and privileges, granted to nations; oaths of allegiance taken, and wonderful benefits conferred upon them. But, having already ſaid as much as is needful concerning conqueſts, and that the magiſtrate, who has nothing except what is given to him, can only diſpenſe out of the public ſtock ſuch franchiſes and privileges as he has received for the reward of ſervices done to the country, and encouragement of virtue, I ſhall at preſent keep myſelf to the two laſt points.

Allegiance ſignifies no more (as the words "ad legem" declare) than ſuch an obedience as the law requires. But as the law can require nothing from the whole people, who are maſters of it, allegiance

* Si bonam dederitis, fidam & perpetuam; ſi malam, haud diuturnam. Liv.

† Viri & liberi vocem auditam. Ibid.

‖ Eos demum, qui nihil præterquam de libertate cogitant, dignos eſſe, qui Romani fiant. Ibid.

can

can only relate to particulars, and not to the whole. No oath can bind any other than thoſe who take it, and that only in the true ſenſe and meaning of it: but ſingle men only take this oath, and therefore ſingle men are only obliged to keep it: the body of a people neither does, nor can perform any ſuch act: agreements and contracts have been made; as the tribe of Judah, and the reſt of Iſrael afterward, made a covenant with David, upon which they made him king; but no wiſe man can think, that the nation did thereby make themſelves the creature of their own creature. SECT. 36.

The ſenſe alſo of an oath ought to be conſidered. No man can by an oath be obliged to any thing beyond, or contrary to, the true meaning of it: private men, who ſwear obedience "ad legem," ſwear no obedience "extra" or "contra legem:" whatſoever they promiſe or ſwear, can detract nothing from the public liberty, which the law principally intends to preſerve. Tho' many of them may be obliged, in their ſeveral ſtations and capacities, to render peculiar ſervices to a prince, the people continue as free as the internal thoughts of a man, and cannot but have a right to preſerve their liberty, or avenge the violation.

If matters are well examined, perhaps not many magiſtrates can pretend to much upon the title of merit, moſt eſpecially if they or their progenitors have continued long in office. The conveniences annexed to the exerciſe of the ſovereign power, may be thought ſufficient to pay ſuch ſcores as they grow due, even to the beſt: and as things of that nature are handled, I think it will hardly be found, that all princes can pretend to an irreſiſtible power upon the account of beneficence to their people. When the family of Medices came to be maſters of Tuſcany, that country was, without diſpute, in men, money, and arms, one of the moſt flouriſhing provinces in the world, as appears by Machiavel's account, and the relation of what happened between Charles the Eighth, and the magiſtrates of Florence, which I have mentioned already from Guicciardin. Now, whoever ſhall conſider the ſtrength of that country in thoſe days, together with what it might have been in the ſpace of a hundred and forty years, in which they have had no war, nor any other plague, than the extortion, fraud, rapine, and cruelty of their princes, and compare it with their preſent deſolate, wretched, and contemptible condition, may, if he pleaſe, think, that much veneration is due to the princes that govern them; but will never make any man believe, that their title can be grounded upon beneficence. The like may be ſaid of the duke of Savoy, who, pretending (upon I know not what account) that every peaſant in the duchy ought to pay him two crowns every half-year, did in 1662. ſubtilly find out, that in every year there were thirteen halves; ſo that a poor man, who had nothing but what he gained by hard labour, was, through his fatherly care and beneficence, forced to pay ſix-and-twenty crowns to his royal highneſs, to be employed in his diſcreet and virtuous pleaſures at Turin.

The condition of the Seventeen provinces of the Netherlands (and even of Spain itſelf), when they fell to the houſe of Auſtria, was of the ſame nature: and I will confeſs as much as can be required, if

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any other marks of their government do remain, than ſuch as are manifeſt evidences of their pride, avarice, luxury, and cruelty.

France, in outward appearance, makes a better ſhew; but nothing in this world is more miſerable, than that people under the fatherly care of their triumphant monarch. The beſt of their condition is, like aſſes and maſtiff-dogs, to work and fight, to be oppreſſed and killed for him; and thoſe among them, who have any underſtanding, well know, that their induſtry, courage, and good ſucceſs, is not only unprofitable, but deſtructive to them; and that, by increaſing the power of their maſter, they add weight to their own chains. And if any prince, or ſucceſſion of princes, have made a more modeſt uſe of their power, or more faithfully diſcharged the truſt repoſed in them, it muſt be imputed peculiarly to them, as a teſtimony of their perſonal virtue, and can have no effect upon others.

The rights therefore of kings are not grounded upon conqueſt; the liberties of nations do not ariſe from the grants of their princes; the oath of allegiance binds no private man to more than the law directs, and has no influence upon the whole body of every nation: many princes are known to their ſubjects only by the injuries, loſſes, and miſchiefs, brought upon them: ſuch as are good and juſt, ought to be rewarded for their perſonal virtue, but can confer no right upon thoſe who no-way reſemble them; and whoever pretends to that merit, muſt prove it by his actions: rebellion, being nothing but a renewed war, can never be againſt a government that was not eſtabliſhed by war, and of itſelf is neither good nor evil, more than any other war; but is juſt or unjuſt, according to the cauſe or manner of it. Beſides, that rebellion, which by Samuel is compared to witchcraft, is not of private men, or a people, againſt the prince, but of the prince againſt God: the Iſraelites are often ſaid to have rebelled againſt the law, word, or command of God; but tho' they frequently oppoſed their kings, I do not find rebellion imputed to them on that account, nor any ill character put upon ſuch actions. We are told alſo of ſome kings who had been ſubdued, and afterwards rebelled againſt Chedorlaomer, and other kings; but their cauſe is not blamed, and we have ſome reaſon to believe it good, becauſe Abraham took part with thoſe who had rebelled. However, it can be of no prejudice to the cauſe I defend: for tho' it were true, that thoſe ſubdued kings could not juſtly riſe againſt the perſon who had ſubdued them; or that generally no king, being once vanquiſhed, could have a right of rebellion againſt his conqueror; it could have no relation to the actions of a people vindicating their own laws and liberties againſt a prince who violates them; for that war which never was, can never be renewed. And if it be true in any caſe, that hands and ſwords are given to men, that they only may be ſlaves who have no courage, it muſt be when liberty is overthrown by thoſe, who of all men ought with the utmoſt induſtry and vigour to have defended it.

1 Sam. xv. 23.

That this ſhould be known, is not only neceſſary for the ſafety of nations, but advantageous to ſuch kings as are wiſe and good. They who know the frailty of human nature, will always diſtruſt their own

own; and deſiring only to do what they ought, will be glad to be reſtrained from that which they ought not to do. Being taught by reaſon and experience, that nations delight in the peace and juſtice of a good government, they will never fear a general inſurrection, whilſt they take care it be rightly adminiſtered; and finding themſelves by this means to be ſafe, will never be unwilling, that their children or ſucceſſors ſhould be obliged to tread in the ſame ſteps. SECT. 36.

If it be ſaid, that this may ſometimes cauſe diſorders, I acknowledge it; but no human condition being perfect, ſuch a one is to be choſen, which carries with it the moſt tolerable inconveniences: and it being much better, that the irregularities and exceſſes of a prince ſhould be reſtrained or ſuppreſſed, than that whole nations ſhould periſh by them, thoſe conſtitutions that make the beſt proviſion againſt the greateſt evils, are moſt to be commended. If governments were inſtituted to gratify the luſts of one man, thoſe could not be good that ſet limits to them; but all reaſonable men confeſſing that they are inſtituted for the good of nations, they only can deſerve praiſe, who above all things endeavour to procure it, and appoint means proportioned to that end. The great variety of governments, which we ſee in the world, is nothing but the effect of this care; and all nations have been, and are more or leſs happy, as they or their anceſtors have had vigour of ſpirit, integrity of manners, and wiſdom to invent and eſtabliſh ſuch orders, as have better or worſe provided for this common good, which was ſought by all. But as no rule can be ſo exact, to make proviſion againſt all conteſtations; and all diſputes about right do naturally end in force when juſtice is denied (ill men never willingly ſubmitting to any deciſion, that is contrary to their paſſions and intereſts); the beſt conſtitutions are of no value, if there be not a power to ſupport them. This power firſt exerts itſelf in the execution of juſtice by the ordinary officers: but no nation having been ſo happy, as not ſometimes to produce ſuch princes as Edward and Richard the Seconds, and ſuch miniſters as Gaveſton, Spencer, and Treſilian, the ordinary officers of juſtice often want the will, and always the power, to reſtrain them. So that the rights and liberties of a nation muſt be utterly ſubverted and aboliſhed, if the power of the whole may not be employed to aſſert them, or puniſh the violation of them. But as it is the fundamental right of every nation to be governed by ſuch laws, in ſuch manner, and by ſuch perſons, as they think moſt conducing to their own good, they cannot be accountable to any but themſelves for what they do in that moſt important affair.

SECT.

SECT. XXXVII.

The Engliſh government was not ill conſtituted, the defects more lately obſerved proceeding from the change of manners, and corruption of the times.

I Am not ignorant, that many honeſt and good men, acknowledging theſe rights, and the care of our anceſtors to preſerve them, think they wanted wiſdom rightly to proportionate the means to the end. It is not enough, ſay they, for the general of an army to deſire victory; he only can deſerve praiſe, who has ſkill, induſtry, and courage, to take the beſt meaſures of obtaining it. Neither is it enough for wiſe legiſlators to preſerve liberty, and to erect ſuch a government as may ſtand for a time; but to ſet ſuch clear rules to thoſe, who are to put it in execution, that every man may know when they tranſgreſs; and appoint ſuch means for reſtraining or puniſhing them, as may be uſed ſpeedily, ſurely, and effectually, without danger to the public. Sparta being thus conſtituted, we hardly find, that, for more than eight hundred years, any king preſumed to paſs the limits preſcribed by the law. If any Roman conſul grew inſolent, he might be reduced to order without blood, or danger to the public; and no dictator ever uſurped a power over liberty till the time of Sylla, when all things in the city were ſo changed, that the antient foundations were become too narrow. In Venice the power of the duke is ſo circumſcribed, that in 1300 years, no one, except Falerio and Tiepoli, has dared to attempt any thing againſt the laws: and they were immediately ſuppreſſed with little commotion in the city. On the other ſide, our law is ſo ambiguous, perplext, and intricate, that it is hard to know when it is broken. In all the public conteſts we have had, men of good judgment and integrity have followed both parties. The means of tranſgreſſing and procuring partizans to make good by force the moſt notorious violations of liberty, have been ſo eaſy, that no prince, who has endeavoured it, ever failed to get great number of followers, and to do infinite miſchiefs, before he could be removed. The nation has been brought to fight againſt thoſe they had made to be what they were, upon the unequal terms of hazarding all againſt nothing. If they had ſucceſs, they gained no more than was their own before, and which the law ought to have ſecured: whereas it is evident, that if at any one time the contrary had happened, the nation had been utterly enſlaved; and no victory was ever gained without the loſs of much noble and innocent blood.

To this I anſwer, that no right judgment can be given of human things, without a particular regard to the time in which they paſſed. We eſteem Scipio, Hannibal, Pyrrhus, Alexander, Epaminondas, and Cæſar, to have been admirable commanders in war, becauſe they had in a moſt eminent degree all the qualities that could make them ſo, and

and knew beſt how to employ the arms then in uſe according to the diſcipline of their times; and yet no man doubts, that if the moſt ſkilful of them could be raiſed from the grave, reſtored to the utmoſt vigour of mind and body, ſet at the head of the beſt armies he ever commanded, and placed upon the frontiers of France or Flanders, he would not know how to advance or retreat, nor by what means to take any of the places in thoſe parts, as they are now fortified and defended; but would moſt certainly be beaten by any inſignificant fellow with a ſmall number of men, furniſhed with ſuch arms as are now in uſe, and following the methods now practiſed. Nay, the manner of marching, encamping, beſieging, attacking, defending, and fighting, is ſo much altered within the laſt threeſcore years, that no man, obſerving the diſcipline that was then thought to be the beſt, could poſſibly defend himſelf againſt that which has been ſince found out, tho' the terms are ſtill the ſame. And if it be conſidered, that political matters are ſubject to the ſame mutations (as certainly they are) it will be ſufficient to excuſe our anceſtors, who, ſuiting their government to the ages in which they lived, could neither foreſee the changes, that might happen in future generations, nor appoint remedies for the miſchiefs they did not foreſee. SECT. 37.

They knew that the kings of ſeveral nations had been kept within the limits of the law, by the virtue and power of a great and brave nobility; and that no other way of ſupporting a mixed monarchy had ever been known in the world, than by putting the balance into the hands of thoſe who had the greateſt intereſt in nations, and who by birth and eſtate enjoyed greater advantages than kings could confer upon them for rewards of betraying their country. They knew, that when the nobility was ſo great as not eaſily to be numbered, the little that was left to the king's diſpoſal, was not ſufficient to corrupt many; and if ſome might fall under the temptation, thoſe who continued in their integrity, would eaſily be able to chaſtiſe them for deſerting the public cauſe, and by that means deter kings from endeavouring to ſeduce them from their duty. Whilſt things continued in this poſture, kings might ſafely be truſted (with the advice of their council) to confer the commands of the militia in towns and provinces upon the moſt eminent men in them: and whilſt thoſe kings were exerciſed in almoſt perpetual wars, and placed their glory in the greatneſs of the actions they atchieved by the power and valour of their people, it was their intereſt always to chuſe ſuch as ſeemed beſt to deſerve that honour. It was not to be imagined, that through the weakneſs of ſome, and malice of others, thoſe dignities ſhould by degrees be turned into empty titles, and become the rewards of the greateſt crimes, and the vileſt ſervices; or that the nobleſt of their deſcendents, for want of them, ſhould be brought under the name of commoners, and deprived of all privileges except ſuch as were common to them with their grooms. Such a ſtupendous change being in proceſs of time inſenſibly introduced, the foundations of that government, which they had eſtabliſhed, were removed, and the ſuperſtructure overthrown. The balance by which it ſubſiſted was broken; and it is as impoſſible to reſtore it, as

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for moſt of thoſe who at this day go under the name of noblemen, to perform the duties required from the antient nobility of England. And tho' there were a charm in the name, and thoſe who have it, ſhould be immediately filled with a ſpirit like to that which animated our anceſtors, and endeavour to deſerve the honours they poſſeſs, by ſuch ſervices to the country as they ought to have performed before they had them, they would not be able to accompliſh it. They have neither the intereſt nor the eſtates required for ſo great a work. Thoſe who have eſtates at a rack-rent, have no dependents. Their tenants, when they have paid what is agreed, owe them nothing; and knowing they ſhall be turned out of their tenements, as ſoon as any other will give a little more, they look upon their lords as men, who receive more from them than they confer upon them. This dependence being loſt, the lords have only more money to ſpend or lay up than others, but no command of men; and can therefore neither protect the weak, nor curb the inſolent. By this means, all things have been brought into the hands of the king, and the commoners; and there is nothing left to cement them, and to maintain the union. The perpetual jarrings we hear every day, the diviſion of the nation into ſuch factions, as threaten us with ruin, and all the diſorders that we ſee or fear, are the effects of this rupture. Theſe things are not to be imputed to our original conſtitutions, but to thoſe who have ſubverted them: and if they who by corrupting, changing, enervating, and annihilating the nobility, which was the principal ſupport of the antient regular monarchy, have driven thoſe who are truly noblemen into the ſame intereſt and name with the commons, and by that means increaſed a party which never was, and I think, never can be, united to the court, they are to anſwer for the conſequences; and if they periſh, their deſtruction is from themſelves.

The inconveniences therefore proceed not from the inſtitution, but from the innovation. The law was plain, but it has been induſtriouſly rendered perplex: they who were to have upheld it are overthrown. That which might have been eaſily performed when the people was armed, and had a great, ſtrong, virtuous, and powerful nobility to lead them, is made difficult, now they are diſarmed, and that nobility aboliſhed. Our anceſtors may evidently appear, not only to have intended well, but to have taken a right courſe to accompliſh what they intended. This had effect as long as the cauſe continued; and the only fault that can be aſcribed to that which they eſtabliſhed is, that it has not proved to be perpetual; which is no more than may be juſtly ſaid of the beſt human conſtitutions, that ever have been in the world. If we will be juſt to our anceſtors, it will become us in our time rather to purſue what we know they intended, and by new conſtitutions to repair the breaches made upon the old, than to accuſe them of the defects that will for ever attend the actions of men. Taking our affairs at the worſt, we ſhall ſoon find, that if we have the ſame ſpirit they had, we may eaſily reſtore our nation to its antient liberty, dignity, and happineſs; and if we do not, the fault is owing to ourſelves, and not to any want of virtue and wiſdom in them.

SECT.

SECT. XXXVIII.

The power of calling and diſſolving parliaments is not ſimply in the king. The variety of cuſtoms in chuſing parliament-men, and the errors a people may commit, neither prove, that kings are or ought to be abſolute.

THE original of magiſtratical power, the intention of our anceſtors in its creation, and the ways preſcribed for the direction and limitation of it may, I preſume, ſufficiently appear by what has been ſaid. But becauſe our author, taking hold of every twig, pretends, "that kings may call and diſſolve parliaments at their pleaſure," and from thence infers "the power to be wholly in them;" alledges, "the "various cuſtoms in ſeveral parts of this nation uſed in the elections "of parliament-men, to proceed from the king's will:" and "becauſe "a people may commit errors," thinks "all power ought to be put "into the hands of the king:

I anſwer, 1. That the power of calling and diſſolving parliaments is not ſimply in kings. They may call parliaments, if there be occaſion, at times when the law does not exact it; they are placed as ſentinels, and ought vigilantly to obſerve the motions of the enemy, and give notice of his approach: but if the ſentinel fall aſleep, neglect his duty, or maliciouſly endeavour to betray the city, thoſe who are concerned may make uſe of all other means to know their danger, and to preſerve themſelves. The ignorance, incapacity, negligence, or luxury of a king, is a great calamity to a nation, and his malice is worſe, but not an irreparable ruin. Remedies may be, and often have been found againſt the worſt of their vices. The laſt French kings, of the races of Meroveus and Pepin, brought many miſchiefs upon the kingdom, but the deſtruction was prevented. Edward and Richard the Seconds of England were not unlike them, and we know by what means the nation was preſerved. The queſtion was not who had the right, or who ought to call parliaments, but how the commonwealth might be ſaved from ruin. The conſuls, or other chief magiſtrates in Rome, had certainly a right of aſſembling and diſmiſſing the ſenate: but when Hannibal was at the gates, or any other imminent danger threatened them with deſtruction; if that magiſtrate had been drunk, mad, or gained by the enemy, no wiſe man can think, that formalities were to have been obſerved. In ſuch caſes every man is a magiſtrate; and he who beſt knows the danger, and the means of preventing it, has a right of calling the ſenate or people to an aſſembly. The people would, and certainly ought to follow him, as they did Brutus and Valerius againſt Tarquin, or Horatius and Valerius againſt the decemviri; and whoever ſhould do otherwiſe, might, for ſottiſhneſs, be compared to the courtiers of the two laſt kings of Spain. The firſt of theſe, by name

Philip

CHAP. III. Philip the Third, being indiſpoſed in cold weather, a braziero of coals was brought into his chamber, and placed ſo near to him, that he was cruelly ſcorched. A nobleman, then preſent, ſaid to one who ſtood by him, "The king burns;" the other anſwered, it was true, but the page, whoſe office it was to bring and remove the braziero, was not there; and before he could be found, his majeſty's legs and face were ſo burnt, that it cauſed an eryſipelas, of which he died. Philip the Fourth eſcaped not much better, who being ſurpriſed as he was hunting by a violent ſtorm of rain and hail, and no man preſuming to lend the king a cloak, he was ſo wet before the officer could be found who carried his own, that he took a cold, which caſt him into a dangerous fever. If kings like the conſequences of ſuch a regularity, they may cauſe it to be obſerved in their own families; but nations, looking in the firſt place to their own ſafety, would be guilty of the moſt extreme ſtupidity, if they ſhould ſuffer themſelves to be ruined for adhering to ſuch ceremonies.

This is ſaid upon a ſuppoſition, that the whole power of calling and diſſolving parliaments is, by the law, placed in the king: but I utterly deny that it is ſo; and to prove it, ſhall give the following reaſons.

(1.) That the king can have no ſuch power, unleſs it be given to him, for every man is originally free; and the ſame power that makes him king, gives him all that belongs to his being king. It is not therefore an inherent, but a delegated power; and whoever receives it, is accountable to thoſe that gave it; for, as our author is forced to confeſs, "they who give authority by commiſſion, do always re-"tain more than they grant."

(2.) The law for annual parliaments expreſly declares it not to be in the king's power, as to the point of their meeting, nor conſequently their continuance. For they meet to no purpoſe if they may not continue to do the work for which they meet; and it were abſurd to give them a power of meeting, if they might not continue till it be done: for, as Grotius ſays, "Qui dat finem, dat media ad finem "neceſſaria." The only reaſon why parliaments do meet, is to provide for the public good; and they by law ought to meet for that end. They ought not therefore to be diſſolved, till it be accompliſhed. For this reaſon the opinion given by Treſilian, that kings might diſſolve parliaments at their pleaſure, was judged to be a principal part of his treaſon.

(3.) We have already proved, that Saxons, Danes, Normans, &c. who had no title to the crown, were made kings by micklegemots, wittenagemots, and parliaments; that is, either by the whole people, or their repreſentatives: others have been by the ſame authority reſtrained, brought to order, or depoſed. But as it is impoſſible, that ſuch as were not kings, and had no title to be kings, could, by virtue of a kingly power, call parliaments, when they had none; and abſurd to think, that ſuch as were in the throne, who had not governed according to law, would ſuffer themſelves to be reſtrained, impriſoned, or depoſed by parliaments, called and ſitting by themſelves, and ſtill depending upon their will to be, or not to be; it is certain

certain that parliaments have in themſelves a power of ſitting and acting for the public good. SECT. 38.

2. To the ſecond. The various cuſtoms uſed in elections are nothing to this queſtion. In the counties, which make up the body of the nation, all freeholders have their votes: theſe are properly "cives," members of the commonwealth, in diſtinction from thoſe who are only "incolæ," or inhabitants, villains, and ſuch as being under their parents, are not yet "ſui juris." Theſe, in the beginning of the Saxons reign in England, compoſed the micklegemots; and when they grew to be ſo numerous, that one place could not contain them, or ſo far diſperſed, that without trouble and danger they could not leave their habitations, they deputed ſuch as ſhould repreſent them. When the nation came to be more poliſhed, to inhabit cities and towns, and to ſet up ſeveral arts and trades; thoſe who exerciſed them, were thought to be as uſeful to the commonwealth, as the freeholders in the country, and to deſerve the ſame privileges. But it not being reaſonable, that every one ſhould in this caſe do what he pleaſed; it was thought fit, that the king with his council (which always conſiſted of the "proceres" and "magnates regni") ſhould judge what numbers of men, and what places deſerved to be made corporations, or bodies politic, and to enjoy thoſe privileges, by which he did not confer upon them any thing that was his, but, according to the truſt repoſed in him, did diſpenſe out of the public ſtock parcels of what he had received from the whole nation: and whether this was to be enjoyed by all the inhabitants, as in Weſtminſter; by the common hall, as in London; or by the mayor, aldermen, jurats, and corporation, as in other places, it is the ſame thing: for in all theſe caſes the king does only diſtribute, not give; and under the ſame condition that he might call parliaments, that is, for the public good. This indeed increaſes the honour of the perſon intruſted, and adds weight to the obligation incumbent upon him; but can never change the nature of the thing, ſo as to make that an inherent, which is only a delegated power. And as parliaments, when occaſion required, have been aſſembled, have refuſed to be diſſolved till their work was finiſhed, have ſeverely puniſhed thoſe who went about to perſuade kings, that ſuch matters depended abſolutely upon their will, and made laws to the contrary; it is not to be imagined, that they would not alſo have interpoſed their authority in matters of charters, if it had been obſerved, that any king had notoriouſly abuſed the truſt repoſed in him, and turned the power to his private advantage, with which he was intruſted for the public good.

That which renders this moſt plain and ſafe, is, that men choſen in this manner to ſerve in parliament, do not act by themſelves, but in conjunction with others, who are ſent thither by preſcription; nor by a power derived from kings, but from thoſe that chuſe them. If it be true therefore, that thoſe who delegate powers, do always retain to themſelves more than they give, they who ſend theſe men, do not give them an abſolute power of doing whatſoever they pleaſe, but retain to themſelves more than they confer upon their deputies: they muſt therefore be accountable to their principals, contrary to what our author aſſerts. This continues in force, tho' he

CHAP. III. knows not, that "any knights and burgeſſes have ever been queſtioned by "thoſe that ſent them;" for it cannot be concluded they ought not, or may not be queſtioned, becauſe none have been queſtioned. But in truth they are frequently queſtioned: the people do perpetually judge of the behaviour of their deputies. Whenſoever any of them has the misfortune not to ſatisfy the major part of thoſe that choſe him, he is ſure to be rejected with diſgrace the next time he ſhall deſire to be choſen. This is not only a ſufficient puniſhment for ſuch faults, as he who is but one of five hundred may probably commit, but as much as the greateſt and freeſt people of the world did ever inflict upon their commanders, that brought the greateſt loſſes upon them. Appius Claudius, Pomponius, and Terentius Varro, ſurvived the greateſt defeats that ever the Romans ſuffered; and, tho' they had cauſed them by their folly and perverſeneſs, were never puniſhed. Yet I think no man doubts, that the Romans had as much right over their own officers, as the Athenians and Carthaginians, who frequently put them to death. They thought the mind of a commander would be too much diſtracted, if at the ſame time he ſhould ſtand in fear both of the enemy, and his own countrymen: and as they always endeavoured to chuſe the beſt men, they would lay no other neceſſity upon them of performing their duty, than what was ſuggeſted by their own virtue, and love to their country. It is not therefore to be thought ſtrange, if the people of England have followed the moſt generous, and moſt proſperous examples. Beſides, if any thing has been defective in their uſual proceedings with their delegates, the inconvenience has been repaired by the modeſty of the beſt and wiſeſt of them that were choſen. Many in all ages, and ſometimes the whole body of the commons, have refuſed to give their opinion in ſome caſes, till they had conſulted with thoſe that ſent them: the houſes have been often adjourned to give them time to do it; and if this were done more frequently, or that the towns, cities, and counties, had on ſome occaſions given inſtructions to their deputies, matters would probably have gone better in parliament than they have often done.

3. The queſtion is not, whether the parliament be impeccable or infallible, but whether an aſſembly of nobility, with a houſe of commons compoſed of thoſe who are beſt eſteemed by their neighbours in all the towns and counties of England, are more or leſs ſubject to error or corruption, than ſuch a man, woman, or child, as happens to be next in blood to the laſt king. Many men do uſually ſee more than one; and if we may believe the wiſeſt king, "In the
Prov. xi. 14. "multitude of counſellors there is ſafety." Such as are of mature age, good experience, and approved reputation for virtue and wiſdom, will probably judge better than children or fools. Men are thought to be more fit for war, than women; and thoſe who are bred up in diſcipline, to underſtand it better than thoſe who never knew any thing of it. If ſome counties or cities fail to chuſe ſuch men as are eminently capable, all will hardly be ſo miſtaken as to chuſe thoſe who have no more of wiſdom or virtue, than is uſually entailed upon families, But Filmer at a venture admires the profound wiſdom of the king; tho', beſides ſuch as we have known, hiſtories give us too many

many proofs, that all thoſe who have been poſſeſſed of crowns, have not excelled that way. He ſpeaks of kings in general, and makes no difference between Solomon and his fooliſh ſon. He diſtinguiſhes not our Edward the Firſt from Edward the Second; Edward the Third from Richard the Second; or Henry the Fifth from Henry the Sixth. And becauſe all of them were kings, all of them, if he deſerves credit, muſt needs have been endowed with profound wiſdom. David was wiſe as an angel of God; therefore the preſent kings of France, Spain, and Sweden, muſt have been ſo alſo, when they were but five years old: Joan of Caſtille could not be mad, nor the two Joans of Naples infamous ſtrumpets, or elſe all his arguments fall to the ground. For tho' Solomon's wiſdom ſurpaſſed that of all the people, yet men could not rely equally upon that of Rehoboam, unleſs it had been equal. And if they are all equal in wiſdom when they come to be equally kings, Perſes of Macedon was as great a captain as Philip or Alexander; Commodus and Heliogabalus were as wiſe and virtuous as Marcus Aurelius and Antoninus Pius: nay, Chriſtina of Sweden, in her infancy, was as fit to command an army as her valiant father. If this be moſt abſurd and falſe, there can be neither reaſon nor ſenſe in propoſing, as our author does, that the power ſhould be in the king, becauſe the parliament is not infallible. "It "is," ſays he, "for the head to correct, and not to expect the conſent "of the members or parties peccant to be judges in their own caſes; "nor is it needful to confine the king, &c." Beſides that this is directly contrary to his own fundamental maxim, that no man muſt be the judge of his own caſe, inaſmuch as this would put the power into the king's hands, to decide the controverſies between himſelf and the people, in which his own paſſions, private intereſt, and the corrupt counſels of ill miniſters, will always lead him out of the way of juſtice, the inconveniences that may ariſe from a poſſibility that the parliament or people is not infallible, will be turned to the moſt certain and deſtructive miſchiefs; as muſt have fallen out in Spain, if, upon a ſuppoſition that the eſtates of Caſtille might err, the correction of ſuch errors had been left to the profound wiſdom, and exquiſite judgment, of Joan their queen and head, who was ſtark-mad. And the like may be ſaid of many other princes, who through natural or accidental infirmities, want of age, or dotage, have been utterly unable to judge of any thing. SECT. 38.

The matter will not be much mended, tho' I paſs from idiots and lunatics, to ſuch as know well enough how to cloathe and feed themſelves, and to perform the ordinary functions of life; and yet have been as uncapable of giving a right judgment concerning the weighty matters of government, as the weakeſt of children, or the moſt furious of madmen. Good manners forbid me to enumerate the examples of this kind, which Europe has produced even in this age: but I ſhould commit a greater fault, if I did in ſilence paſs over the extravagances of thoſe, who being moſt weak in judgment, and irregular in their appetites, have been moſt impatient of any reſtraint upon their will. The brave Guſtavus Adolphus, and his nephew Carolus Guſtavus, who was not inferior to him in valour, wiſdom, and love to his people, were content with the power that the laws

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laws of their country gave to them: but Frederic the Fourth of Denmark never reſted till he had overthrown the liberty of that nation. Caſimir by attempting the like in Poland, loſt almoſt half of that kingdom; and flying from the other, left all to be ravaged by Swedes, Tartars, and Coſacs. The preſent emperor, who paſſed his time in ſetting ſongs in muſic with a wretched Italian eunuch, when he ought to have been at the head of a brave army, raiſed to oppoſe the Turks in the year 1664. and which under good conduct might have overthrown the Ottoman empire, as ſoon as he was delivered from the fear of that enemy, fell upon his own ſubjects with ſuch cruelty, that they are now forced to fly to the Turks for protection; the proteſtants eſpecially, who find their condition more tolerable under thoſe profeſſed enemies to chriſtianity, than to be expoſed to the pride, avarice, perfidiouſneſs, and violence, of the jeſuits, by whom he is governed. And the qualities of the king of Portugal are ſo well known, together with the condition to which he would have brought his kingdom if he had not been ſent to the Tercera's, that I need not ſpeak particularly of him.

If kings therefore, by virtue of their office, are conſtituted judges over the body of their people, becauſe the people, or parliaments repreſenting them, are not infallible; thoſe kings who are children, fools, diſabled by age, or madmen, are ſo alſo; women have the ſame right, where they are admitted to the ſucceſſion; thoſe men, who, tho' of ripe age, and not ſuperannuated, nor directly fools or madmen, yet abſolutely uncapable of judging important affairs, or by their paſſions, intereſts, vices, or malice and wickedneſs of their miniſters, ſervants, and favourites, are ſet to oppreſs and ruin the people, enjoy the ſame privilege; than which nothing can be imagined more abſurd and abominable, nor more directly tending to the corruption and deſtruction of the nations under them, for whoſe good and ſafety our author confeſſes they have their power.

SECT. XXXIX.

Thoſe kings only are heads of the people, who are good, wiſe, and ſeek to advance no intereſt but that of the public.

THE worſt of men ſeldom arrive to ſuch a degree of impudence, as plainly to propoſe the moſt miſchievous follies and enormities. They who are enemies to virtue, and fear not God, are afraid of men, and dare not offer ſuch things as the world will not bear, leſt by that means they ſhould overthrow their own deſigns. All poiſon muſt be diſguiſed, and no man can be perſuaded to eat arſenic, unleſs it be covered with ſomething that appears to be harmleſs. Creuſa would have abhorred Medea's preſent, if the peſtilent venom had not been hidden by the exterior luſtre of gold and gems. The garment that deſtroyed Hercules appeared beautiful; and Eve had neither eaten of the forbidden tree, nor given the fruit to her huſband,

huſband, if it had not ſeemed to be good and pleaſant, and ſhe had not been induced to believe, that by eating it they ſhould both be as gods. The ſervants of the devil have always followed the ſame method: their malice is carried on by fraud, and they have ſeldom deſtroyed any, but ſuch as they had firſt deceived. Truth can never conduce to miſchief, and is beſt diſcovered by plain words; but nothing is more uſual with ill men, than to cover their miſchievous deſigns with figurative phraſes. It would be too ridiculous to ſay in plain terms, that all kings without diſtinction are better able to judge of all matters than any or all their people; they muſt therefore be called "the head," that thereby they may be inveſted with all the pre-eminences which in a natural body belong to that part; and men muſt be made to believe the analogy between the natural and political body to be perfect. But the matter muſt be better examined before this mortal poiſon ſeem fit to be ſwallowed. SECT. 39.

The word "head" is figuratively uſed both in Scripture and profane authors in ſeveral ſenſes, in relation to places or perſons, and always implies ſomething of real or ſeeming pre-eminence in point of honour or juriſdiction. Thus Damaſcus is ſaid to be the head of Syria; Samaria of Ephraim, and Ephraim of the ten tribes; that is, Ephraim was the chief tribe: Samaria was the chief city of Ephraim, and Damaſcus of Syria; tho' it be certain, that Ephraim had no juriſdiction over the other tribes, nor Samaria over the other cities of Ephraim, but every one according to the law had an equal power within itſelf, or the territories belonging to it; and no privileges were granted to one above another, except to Jeruſalem, in the matter of religion, becauſe the temple was placed there.

The words alſo head, prince, principal man, or captain, ſeem to be equivocal; and in this ſenſe, the ſame men are called heads of the tribes, princes in the houſes of their fathers: and it is ſaid, that two hundred heads of the tribe of Reuben were carried away captive by Tiglath-Pilezer, and proportionably in the other tribes; which were a ſtrange thing, if the word did imply that ſupreme, abſolute, and infinite power that our author attributes to it: and no man of leſs underſtanding than he, can comprehend how there ſhould be two hundred or more ſovereign unlimited powers in one tribe, moſt eſpecially when it is certain, that one ſeries of kings had for many ages reigned over that tribe and nine more; and that every one of thoſe tribes, as well as the particular cities, even from their firſt entrance into the promiſed land, had a full juriſdiction within itſelf. When the Gileadites came to Jephtha, he ſuſpected them, and aſked whether indeed they intended to make him their head? They anſwered, if he would lead them againſt the Ammonites, he ſhould be their head. In the like ſenſe, when Julius Cæſar in deſpair would have killed himſelf, one of his ſoldiers diſſuaded him from that deſign, by telling him, "* That the ſafety of ſo many nations, that had "made him their head, depending upon his life, it would be cruelty

1 Chron. v.

Judg. xii.

* Cum tot ab hac anima populorum vita ſaluſque
Pendeat, & tantus caput hoc ſibi fecerit orbis,
Sævitia eſt voluiſſe mori.—Lucan.

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" in him to take ſuch a reſolution." But for all that, when this head was taken off, the body did ſtill ſubſiſt: upon which I obſerve many fundamental differences, between the relation of this figurative head (even when the word is rightly applied) and that of the natural head to their reſpective bodies.

The figurative heads may be many, the natural but one.

The people make or create the figurative head; the natural is from itſelf, or connate with the body.

The natural body cannot change or ſubſiſt without the natural head; but a people may change and ſubſiſt very well without the artificial. Nay, if it had been true, that the world had choſen Cæſar, as it was not (for he was choſen only by a factious mercenary army, and the ſoundeſt part ſo far oppoſed that election, that they brought him to think of killing himſelf) there could have been no truth in this flattering aſſertion, " That the ſafety of the whole depended " upon his life:" for the world could not only ſubſiſt without him, but without any ſuch head, as it had done, before he by the help of his corrupted ſoldiery had uſurped the power; which alſo ſhews, that a civil head may be a matter of convenience, but not of neceſſity. Many nations have had none; and if the expreſſion be ſo far ſtretched, as to make it extend to the annual or temporary magiſtrates ſet up by the Athenians, Carthaginians, Romans, and other antient commonwealths, or to thoſe at this day in Venice, Holland, Switſerland, and other places, it muſt be confeſſed, that the people who made, depoſed, abrogated, or aboliſhed, both the magiſtrates and magiſtracies, had the power of framing, directing, and removing their heads, which, our author will ſay, is moſt abſurd. Yet they did it without any prejudice to themſelves, and very often much to their advantage.

In mentioning theſe vaſt and eſſential differences between the natural and political head, I no-way intend to exclude others, that may be of equal weight; but as all figurative expreſſions have their ſtrength only from ſimilitude, there can be little or none in this, which differs in ſo many important points, and can therefore be of no effect.

However, right proceeds from identity, and not from ſimilitude. The right of a man over me is by being my father, and not by being like my father. If I had a brother ſo perfectly reſembling me, as to deceive our parents, which has ſometimes happened to twins, it could give him no right to any thing that is mine. If the power therefore of correcting the parties peccant, which our author attributes to kings, be grounded upon the name of head, and a reſemblance between the heads of the body politic and body natural; if this reſemblance be found to be exceedingly imperfect, uncertain, or perhaps no-way relating to the matter in queſtion; or tho' it did, and were abſolutely perfect, could confer no right; the allegation of it is impertinent and abſurd.

This being cleared, it is time to examine, what the office of the head is in a natural body, that we may learn from thence, why that name is ſometimes given to thoſe, who are eminent in political bodies, and to whom it does belong.

Some

Some men account the head to be ſo abſolutely the ſeat of all the ſenſes, as to derive even that of feeling, which is exerciſed in every part, from the brain: but I think it is not doubted, that all the reſt have both their ſeat and function in the head; and whatſoever is uſeful or hurtful to a man, is by them repreſented to the underſtanding; as Ariſtotle ſays, "Nihil eſt intellectu, quod non ſit prius in ſenſu." This is properly the part of every magiſtrate: he is the centinel of the public, and is to repreſent what he diſcovers beneficial or hurtful to the ſociety; which office belongs not only to the ſupreme, but proportionably to the ſubordinate. In this ſenſe were the chief men among the Iſraelites called, "heads of their fathers houſe, choice and "mighty men of valour, chief of the princes." And in the following chapter mention is made of "nine hundred and fifty Benjamites, chief "men in the houſe of their fathers." Theſe men exerciſed a charitable care over ſuch as were inferior to them in power and valour, without any ſhadow of ſovereignty, or poſſibility that there could be ſo many ſovereigns: and ſuch as were under their care are ſaid to be their brethren; which is not a word of majeſty and domination, but of dearneſs and equality. The name therefore of head may be given to a ſovereign, but it implies nothing of ſoveregnty; and muſt be exerciſed with charity, which always terminates in the good of others. The head cannot correct or chaſtiſe; the proper work of that part is only to indicate; and he who takes upon him to do more is not the head. A natural body is homogeneous, and cannot ſubſiſt, if it be not ſo. We cannot take one part of a horſe, another of a bear, and put upon them the head of a lion; for it would be a monſter, that would have neither action nor life. The head muſt be of the ſame nature with the other members, or it cannot ſubſiſt. But the lord or maſter differs "in ſpecie" from his ſervants and ſlaves: he is not therefore properly their head.

SECT. 39.

1 Chron. vii. 40.

Beſides, the head cannot have a ſubſiſtence without the body, nor any intereſt contrary to that of the body; and it is impoſſible for any thing to be good for the head, that is hurtful to the body. A prince therefore or magiſtrate, who ſets up an intereſt in himſelf diſtinct from, or repugnant to, that of the people, renounces the title or quality of their head. Indeed, Moſes was the head of the Iſraelites: for when God threatened to deſtroy that people, and promiſed to make him a great nation, he waved the particular advantages offered to himſelf, interceded for them, and procured their pardon. Yet he was not able to bear the weight of the government alone; but deſired that ſome might be appointed to aſſiſt him. Gideon was the head of the ſame people; but he would not reign himſelf, nor ſuffer his ſons to reign over them. Samuel was alſo their head; he took nothing from any man, defrauded none, took bribes from no man, oppreſſed none; God and the people were his witneſſes: he blamed them for their rebellion againſt God in aſking a king, but was noway concerned for himſelf, or his family. David likewiſe had a right to that title; for he deſired, that God would ſpare the people, and turn the effect of his anger againſt himſelf, and the houſe of his father. But Rehoboam was not their head; for tho' he acknowledged, that his father had laid a heavy yoke upon them, yet he told

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told them he would add to the weight; and that if his father had chaſtiſed them with whips, he would chaſtiſe them with ſcorpions. The head is no burden to the body, and can lay none upon it; the head cannot chaſtiſe any member; and he who does ſo, be it more or leſs, cannot be the head. Jeroboam was not the head of the revolting tribes; for the head takes care of the members, and to provide for the ſafety of the whole: but he, through fear that the people going to Jeruſalem to worſhip ſhould return to the houſe of David, by ſetting up idols to ſecure his own intereſts, drew guilt and deſtruction upon them. Tho' it ſhould be granted, that Auguſtus, by a gentle uſe of his power, had in a manner expiated the deteſtable villainies committed in the acquiſition, and had truly deſerved to be called the head of the Romans; yet that title could no-way belong to Caligula, Claudius, Nero, or Vitellius, who neither had the qualities required in the head, nor the underſtanding or will to perform the office. Nay, if I ſhould carry the matter farther, and acknowledge that Brutus, Cincinnatus, Fabius, Camillus, and others, who, in the time of their annual or ſhorter magiſtracies, had by their vigilance, virtue, and care to preſerve the city in ſafety, and to provide for the public good, performed the office of the head, and might deſerve the name; I might juſtly deny it to the greateſt princes that have been in the world, who, having their power for life, and leaving it to deſcend to their children, have wanted the virtues required for the performance of their duty: and I ſhould leſs fear to be guilty of an abſurdity in ſaying, that a nation might every year change its head, than that he can be the head, who cares not for the members, nor underſtands the things that conduce to their good, moſt eſpecially if he ſet up an intereſt in himſelf againſt them. It cannot be ſaid, that theſe are imaginary caſes, and that no prince does theſe things; for the proof is too eaſy, and the examples too numerous. Caligula could not have wiſhed the Romans but one head, that he might cut it off at once, if he had been that head, and had advanced no intereſt contrary to that of the members. Nero had not burned the city of Rome, if his concernments had been inſeparably united to thoſe of the people. He who cauſed above three hundred thouſand of his innocent unarmed ſubjects to be murdered, and filled his whole kingdom with fire and blood, did ſet up a perſonal intereſt repugnant to that of the nation; and no better teſtimony can be required to ſhew, that he did ſo, than a letter written by his ſon, to take off the penalty due to one of the chief miniſters of thoſe cruelties, for this reaſon, that what he had done, was "by the command, and for the ſervice, of his "royal father." King John did not purſue the advantage of his people, when he endeavoured to ſubject them to the pope, or the Moors. And whatever prince ſeeks aſſiſtance from foreign powers, or makes leagues with any ſtranger or enemy for his own advantage againſt his people, however ſecret the treaty may be, declares himſelf not to be the head, but an enemy to them. The head cannot ſtand in need of an exterior help againſt the body, nor ſubſiſt when divided from it. He therefore that courts ſuch an aſſiſtance, divides himſelf from the body; and if he do ſubſiſt, it muſt be by a life he has in himſelf, diſtinct from that of the body, which the head cannot have.

But

But beſides theſe enormities, that teſtify the moſt wicked rage and fury, in the higheſt degree, there is another practice, which no man that knows the world, can deny to be common with princes, and incompatible with the nature of a head. The head cannot deſire to draw all the nouriſhment of the body to itſelf, nor more than a due proportion. If the reſt of the parts are ſick, weak, or cold, the head ſuffers equally with them; and, if they periſh, muſt periſh alſo. Let this be compared with the actions of many princes we know, and we ſhall ſoon ſee which of them are heads of their people. If the gold brought from the Indies, has been equally diſtributed by the kings of Spain to the body of that nation, I conſent they may be called the heads. If the kings of France aſſume no more of the riches of that great kingdom, than their due proportion, let them alſo wear that honourable name. But if the naked backs, and empty bellies, of their miſerable ſubjects evince the contrary, it can by no means belong to them. If thoſe great nations waſte and languiſh; if nothing be ſo common in the beſt provinces belonging to them, as miſery, famine, and all the effects of the moſt outrageous oppreſſion, whilſt their princes and favourites poſſeſs ſuch treaſures, as the moſt wanton prodigality cannot exhauſt; if that which is gained by the ſweat of ſo many millions of men, be torn out of the mouths of their ſtarving wives and children, to foment the vices of thoſe luxurious courts, or reward the miniſters of their luſts; the nouriſhment is not diſtributed equally to all the parts of the body; the œconomy of the whole is overthrown; and they who do theſe things, cannot be the heads, nor parts of the body, but ſomething diſtinct from, and repugnant to it. It is not therefore he who is found in, or advanced to the place of the head, who is truly the head: it is not he who ought, but he who does perform the office of the head, that deſerves the name and privileges belonging to the head. If our author therefore will perſuade us, that any king is head of his people, he muſt do it by arguments peculiarly relating to him, ſince thoſe in general are found to be falſe. If he ſay, that the king, as king, may direct or correct the people, and that the power of determining all controverſies muſt be referred to him, becauſe they may be miſtaken, he muſt ſhew that the king is infallible; for unleſs he do ſo, the wound is not cured. This alſo muſt be by ſome other way, than by ſaying he is their head; for ſuch powers belong not to the office of the head, and we ſee, that all kings do not deſerve that name: many of them want both underſtanding and will, to perform the functions of the head; and many act directly contrary, in the whole courſe of their government. If any therefore among them have merited the glorious name of heads of nations, it muſt have been by their perſonal virtues, by a vigilant care of the good of their people, by an inſeparable conjunction of intereſts with them, by an ardent love to every member of the ſociety, by a moderation of ſpirit affecting no undue ſuperiority, or aſſuming any ſingular advantage, which they are not willing to communicate to every part of the political body. He who finds this merit in himſelf, will ſcorn all the advantages that can be drawn from miſapplied names: he that knows ſuch honour to be peculiarly due to him for being the beſt of kings, will

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never glory in that which may be common to him with the worſt. Nay, whoever pretends, by ſuch general diſcourſes as theſe of our author, to advance the particular intereſts of any one king, does either know he is of no merit, and that nothing can be ſaid for him, which will not as well agree with the worſt of men; or cares not what he ſays, ſo he may do miſchief; and is well enough contented, that he who is ſet up by ſuch maxims as a public plague, may fall in the ruin he brings upon the people.

SECT. XL.

Good laws preſcribe eaſy and ſafe remedies againſt the evils proceeding from the vices or infirmities of the magiſtrate; and when they fail, they muſt be ſupplied.

THOSE who deſire to advance the power of the magiſtrate above the law, would perſuade us, that the difficulties and dangers of inquiring into his actions, or oppoſing his will, when employed in violence and injuſtice, are ſo great, that the remedy is always worſe than the diſeaſe; and that it is better to ſuffer all the evils that may proceed from his infirmities and vices, than to hazard the conſequences of diſpleaſing him. But, on the contrary, I think, and hope to prove,

1. That in well-conſtituted governments, the remedies againſt ill magiſtrates are eaſy and ſafe.

2. That it is good, as well for the magiſtrate as the people, ſo to conſtitute the government, that the remedies may be eaſy and ſafe.

3. That how dangerous and difficult ſoever they may be through the defects of the firſt conſtitution, they muſt be tried.

To the firſt; it is moſt evident, that in well regulated governments theſe remedies have been found to be eaſy and ſafe. The kings of Sparta were not ſuffered in the leaſt to deviate from the rule of the law: and Theopompus one of thoſe kings, in whoſe time the ephori were created, and the regal power much reſtrained, doubted not to affirm, that it was by that means become more laſting, and more ſecure. Pauſanias had not the name of king, but commanded in the war againſt Xerxes with more than regal power: nevertheleſs, being grown inſolent, he was, without any trouble to that ſtate, baniſhed, and afterwards put to death. Leontidas father of Cleomenes, was in the like manner baniſhed. The ſecond Agis was moſt unjuſtly put to death by the ephori; for he was a brave and a good prince; but there was neither danger nor difficulty in the action. Many of the Roman magiſtrates, after the expulſion of the kings, ſeem to have been deſirous to extend their power beyond the bounds of the law; and perhaps ſome others, as well as the decemviri, may have deſigned an abſolute tyranny; but the firſt were reſtrained, and the others without much difficulty ſuppreſſed. Nay, even the kings were ſo well kept in order, that no man ever pretended to the crown,

Plutarch.

crown, unleſs he were choſen, nor made any other uſe of his power than the law permitted, except the laſt Tarquin, who by his inſolence, avarice, and cruelty, brought ruin upon himſelf and his family. I have already mentioned one or two dukes of Venice, who were not leſs ambitious; but their crimes returned upon their own heads, and they periſhed without any other danger to the ſtate, than what had paſſed before their treaſons were diſcovered. Infinite examples of the like nature may be alledged; and if matters have not at all times, and in all places, ſucceeded in the ſame manner, it has been becauſe the ſame courſes were not every-where taken; for all things do ſo far follow their cauſes, that, being ordered in the ſame manner, they will always produce the ſame effects. SECT. 40.

2. To the ſecond; ſuch a regulation of the magiſtratical power is not at all grievous to a good magiſtrate. He who never deſires to do any thing but what he ought, cannot deſire a power of doing what he ought not, nor be troubled to find he cannot do that which he would not do if he could. This inability is alſo advantageous to thoſe who are evil or unwiſe; that ſince they cannot govern themſelves, a law may be impoſed upon them, leſt, by following their own irregular will, they bring deſtruction upon themſelves, their families, and people, as many have done. If Apollo in the fable had not been too indulgent to Phaeton, in granting his ill-conceived requeſt, the furious youth had not brought a neceſſity upon Jupiter, either of deſtroying him, or ſuffering the world to be deſtroyed by him.

Beſides, good and wiſe men know the weight of ſovereign power, and miſdoubt their own ſtrength. Sacred and human hiſtories furniſh us with many examples of thoſe who have feared the luſtre of a crown. Men that find in themſelves no delight in doing miſchief, know not what thoughts may inſinuate into their minds, when they are raiſed too much above their ſphere. They who were able to bear adverſity, have been precipitated into ruin by proſperity. When the prophet told Hazael the villainies he would commit, he anſwered, "Is thy ſervant a dog, that I ſhould do theſe things?" but yet he did them. I know not where to find an example of a man more excellently qualified, than Alexander of Macedon; but he fell under the weight of his own fortune, and grew to exceed thoſe in vice, whom he had conquered by his virtue. The nature of man can hardly ſuffer ſuch violent changes, without being diſordered by them; and every one ought to enter into a juſt diffidence of himſelf, and fear the temptations that have deſtroyed ſo many. If any man be ſo happily born, ſo carefully educated, ſo eſtabliſhed in virtue, that no ſtorm can ſhake him, nor any poiſon corrupt him, yet he will conſider he is mortal; and, knowing no more than Solomon, whether his ſon ſhall be a wiſe man or a fool, he will always fear to take upon him a power, which muſt prove a moſt peſtilent evil both to the perſon that has it, and to thoſe that are under it, as ſoon as it ſhall fall into the hands of one, who either knows not how to uſe it, or may be eaſily drawn to abuſe it. Supreme magiſtrates always walk in obſcure and ſlippery places: but when they are advanced ſo high, that no one is near enough to ſupport, direct, or reſtrain them, their fall is inevitable and mortal. And thoſe nations that have wanted the prudence rightly

CHAP. III. rightly to balance the powers of their magiſtrates, have been frequently obliged to have recourſe to the moſt violent remedies, and with much difficulty, danger, and blood, to puniſh the crimes which they might have prevented. On the other ſide, ſuch as have been more wiſe in the conſtitution of their governments, have always had regard to the frailty of human nature, and the corruption reigning in the hearts of men; and, being leſs liberal of the power over their lives and liberties, have reſerved to themſelves ſo much, as might keep their magiſtrates within the limits of the law, and oblige them to perform the ends of their inſtitution. And as the law which denounces ſevere penalties for crimes, is indeed merciful both to ill men, who are by that means deterred from committing them; and to the good, who otherwiſe would be deſtroyed; ſo thoſe nations that have kept the reins in their hands, have by the ſame act provided as well for the ſafety of their princes, as for their own. They who know the law is well defended, ſeldom attempt to ſubvert it: they are not eaſily tempted to run into exceſſes, when ſuch bounds are ſet, as may not ſafely be tranſgreſſed; and whilſt they are by this means rendered more moderate in the exerciſe of their power, the people is exempted from the odious neceſſity of ſuffering all manner of indignities and miſeries, or by their deſtruction to prevent or avenge them.

3. To the third; if theſe rules have not been well obſerved in the firſt conſtitution, or from the changes of times, corruption of manners, inſenſible encroachments, or violent uſurpations of princes, have been rendered ineffectual, and the people expoſed to all the calamities that may be brought upon them by the weakneſs, vices, and malice of the prince, or thoſe who govern him, I confeſs the remedies are more difficult and dangerous; but even in thoſe caſes they muſt be tried. Nothing can be feared that is worſe than what is ſuffered, or muſt in a ſhort time fall upon thoſe who are in this condition. They who are already fallen into all that is odious, ſhameful, and miſerable, cannot juſtly fear. When things are brought to ſuch a paſs, the boldeſt counſels are the moſt ſafe; and if they muſt * periſh who lie ſtill, and they can but periſh who are moſt active, the choice is eaſily made. Let the danger be never ſo great, there is a poſſibility of ſafety, whilſt men have life, hands, arms, and courage to uſe them; but that people muſt certainly periſh, who tamely ſuffer themſelves to be oppreſſed, either by the injuſtice, cruelty, and malice of an ill magiſtrate, or by thoſe who prevail upon the vices and infirmities of weak princes. It is in vain to ſay, that this may give occaſion to men of raiſing tumults, or civil war; for tho' theſe are evils, yet they are not the greateſt of evils. Civil war, in Macchiavel's account, is a diſeaſe; but tyranny is the death of a ſtate. Gentle ways are firſt to be uſed, and it is beſt if the work can be done by them; but it muſt not be left undone, if they fail. It is good to uſe ſupplications, advices, and remonſtrances; but thoſe who have no

* Moriendum victis, moriendum deditis; id ſolum intereſt, an inter cruciatus & ludibria, an per virtutem expiremus. C. Tacit.

Quod ſi nocentes innocenteſq; idem exitus maneat, acrioris viri eſt merito perire. Ibid.

regard to juſtice, and will not hearken to counſel, muſt be conſtrained. It is folly to deal otherwiſe with a man who will not be guided by reaſon, and a magiſtrate who deſpiſes the law; or rather, to think him a man, who rejects the eſſential principle of a man; or to account him a magiſtrate, who overthrows the law by which he is a magiſtrate. This is the laſt reſult; but thoſe nations muſt come to it, which cannot otherwiſe be preſerved. Nero's madneſs was not to be cured, nor the miſchievous effects of it any otherwiſe to be ſuppreſſed than by his death. He who had ſpared ſuch a monſter when it was in his power to remove him, had brought deſtruction upon the whole empire; and by a fooliſh clemency made himſelf the author of his future villainies. This would have been yet more clear, if the world had then been in ſuch a temper as to be capable of an intire liberty. But the antient foundations had been overthrown, and nothing better could be built upon the new, than ſomething that might in part reſiſt that torrent of iniquity which had overflowed the beſt part of the world, and give mankind a little time to breathe under a leſs barbarous maſter. Yet all the beſt men did join in the work that was then to be done, tho' they knew it would prove but imperfect. The ſacred hiſtory is not without examples of this kind: when Ahab had ſubverted the law, ſet up falſe witneſſes, and corrupt judges, to deſtroy the innocent, killed the prophets, and eſtabliſhed idolatry, his houſe muſt then be cut off, and his blood be lickt up by dogs. When matters are brought to this paſs, the deciſion is eaſy. The queſtion is only whether the puniſhment of crimes ſhall fall upon one or a few perſons who are guilty of them, or upon a whole nation that is innocent. If the father may not die for the ſon, nor the ſon for the father, but every one muſt bear the penalty of his own crimes, it would be moſt abſurd to puniſh the people for the guilt of princes. When the earl of Morton was ſent ambaſſador to queen Elizabeth by the eſtates of Scotland, to juſtify their proceedings againſt Mary their queen, whom they had obliged to renounce the government, he alledged amongſt other things the murder of her huſband plainly proved againſt her; aſſerted the antient right and cuſtom of that kingdom, of * examining the actions of their kings; by which means, he ſaid, many had been † puniſhed with death, impriſonment, and exile; confirmed their actions by the examples of other nations; and upon the whole matter concluded, that if ſhe was ſtill permitted to live, it was not on account of her innocence, or any exemption from the penalties of the law, but from the mercy and clemency of the people, who, contenting themſelves with a reſignation of her right and power to her ſon, had ſpared her. This diſcourſe, which is ſet down at large by the hiſtorian cited on the margin, being of

SECT. 40.

* Animadvertendi in reges.

† Morte, vinculis, & exilio puniti. Buchan. hiſt. Scot. l. xx. Qui tot reges regno exuerunt, exilio dâmnarunt, carceribus coercuerunt, ſupplicio deniq; affecerunt, nec unquam tamen de acerbitate legis minuenda mentio eſt facta, &c. Ibid. Facile apparet regnum nihil aliud eſſe, quam mutuam inter regem & populum ſtipultaionem. Non de illarum ſanctioonum genere, quæ mutat'onibus temporum ſunt obnoxiæ, ſed in primo generis humani exortu, et mutuo prope omnium gentium conſenſu comprobatæ, & una cum rerum natura infragiles & ſempiternæ perennent. Ibid.

ſuch ſtrength in itſelf as never to have been any otherwiſe anſwered than by railing, and no-way diſaproved by queen Elizabeth, or her council, to whom it was made, either upon a general account of the pretenſions of princes to be exempted from the penalties of the law, or any pretext that they had particularly miſapplied them in relation to their queen, I may juſtly ſay, that when nations fall under ſuch princes as are either utterly uncapable of making a right uſe of their power, or do maliciouſly abuſe that authority with which they are entruſted, thoſe nations ſtand obliged, by the duty they owes to themſelves and their poſterity, to uſe the beſt of their endeavour to remove the evil, whatever danger or difficulties they may meet with in the performance. Pontius the Samnite ſaid as truly as bravely to his countrymen, That "*thoſe arms were juſt and pious, that were "neceſſary; and neceſſary, when there was no hope of ſafety by any "other way." This is the voice of mankind, and is diſliked only by thoſe princes, who fear the deſerved puniſhments that may fall upon them; or by their ſervants and flatterers, who, being for the moſt part the authors of their crimes, think they ſhall be involved in their ruin.

SECT. XLI.

The people, for whom and by whom the magiſtrate is created, can only judge whether he rightly perform his office or not.

IT is commonly ſaid, that no man ought to be the judge of his own caſe; and our author lays much weight upon it as a fundamental maxim, tho', according to his ordinary inconſtancy, he overthrows it in the caſe of kings, where it ought to take place, if in any; for it often falls out, that no men are leſs capable of forming a right judgment than they. Their paſſions and intereſts are moſt powerful to diſturb or pervert them. No men are ſo liable to be diverted from juſtice by the flatteries of corrupt ſervants. They never act as kings, except for thoſe by whom and for whom they are created; and acting for others, the account of their actions cannot depend upon their own will. Nevertheleſs I am not afraid to ſay, that naturally and properly a man is the judge of his own concernments. No one is or can be deprived of this privilege, unleſs by his own conſent, and for the good of that ſociety into which he enters. This right therefore muſt neceſſarily belong to every man in all caſes, except only ſuch as relate to the good of the community, for whoſe ſake he has diveſted himſelf of it. If I find myſelf afflicted with hunger, thirſt, wearineſs, cold, heat, or ſickneſs, it is a folly to tell me, I ought not to ſeek meat, drink, reſt, ſhelter, refreſhment, or phyſic, becauſe I muſt not be the judge of my own caſe. The like

* Juſta piaq; ſunt arma; quibus neceſſaria, & neceſſaria, quibus nulla niſi in armis ſpes eſt ſalutis. T. Liv. lib. ix. c. 1.

may

may be ſaid in relation to my houſe, land, or eſtate; I may do what I pleaſe with them, if I bring no damage upon others. But I muſt not ſet fire to my houſe, by which my neighbour's houſe may be burnt. I may not erect forts upon my own lands, or deliver them to a foreign enemy, who may by that means infeſt my country. I may not cut the banks of the ſea, or thoſe of a river, leſt my neighbour's ground be overflown, becauſe the ſociety into which I am incorporated, would by ſuch means receive prejudice. My land is not ſimply my own, but upon condition that I ſhall not thereby bring damage upon the public, by which I am protected in the peaceable enjoyment and innocent uſe of what I poſſeſs. But this ſociety leaves me a liberty to take ſervants, and put them away, at my pleaſure. No man is to direct me, of what quality or number they ſhall be, or can tell me whether I am well or ill ſerved by them. Nay, the ſtate takes no other cognizance of what paſſes between me and them, than to oblige me to perform the contracts I make, and not to do that to them which the law forbids: that is to ſay, the power to which I have ſubmitted myſelf, exerciſes that juriſdiction over me, which was eſtabliſhed by my conſent, and under which I enjoy all the benefits of life, which are of more advantage to me than my liberty could have been, if I had retained it wholly in myſelf. The nature alſo and meaſure of this ſubmiſſion muſt be determined by the reaſons that induced me to it. The ſociety in which I live cannot ſubſiſt, unleſs by rule; the equality in which men are born is ſo perfect, that no man will ſuffer his natural liberty to be abridged, except others do the like: I cannot reaſonably expect to be defended from wrong, unleſs I oblige myſelf to do none; or to ſuffer the puniſhment preſcribed by the law, if I perform not my engagement. But, without prejudice to the ſociety into which I enter, I may and do retain to myſelf the liberty of doing what I pleaſe in all things relating peculiarly to myſelf, or in which I am to ſeek my own convenience. SECT. 41.

Now if a private man is not ſubject to the judgment of any other, than thoſe to whom he ſubmits himſelf for his own ſafety and convenience; and, notwithſtanding that ſubmiſſion, ſtill retains to himſelf the right of ordering according to his own will all things merely relating to himſelf, and of doing what he pleaſes in that which he does for his own ſake; the ſame right muſt more certainly belong to whole nations. When a controverſy happens between Caius and Seius in a matter of right, neither of them may determine the cauſe, but it muſt be referred to a judge ſuperior to both; not becauſe it is not fit that a man ſhould be judge of his own caſe, but becauſe they have both an equal right, and neither of them owes any ſubjection to the other. But if there be a conteſt between me and my ſervant concerning my ſervice, I only am to decide it: he muſt ſerve me in my own way, or begone, if I think fit, tho' he ſerve me never ſo well; and I do him no wrong in putting him away, if either I intend to keep no ſervant, or find that another will pleaſe me better. I cannot therefore ſtand in need of a judge, unleſs the conteſt be with one who lives upon an equal foot with me. No man can be my judge, unleſs he be my ſuperior; and he cannot be my ſuperior, who

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who is not ſo by my conſent, nor to any other purpoſe than I conſent to. This cannot be the caſe of a nation, which can have no equal within itſelf. Controverſies may ariſe with other nations, the deciſion of which may be left to judges choſen by mutual agreement; but this relates not to our queſtion. A nation, and moſt eſpecially one that is powerful, cannot recede from its own right, as a private man, from the knowledge of his own weakneſs, and inability to defend himſelf, muſt come under the protection of a greater power than his own. The ſtrength of a nation is not in the magiſtrate, but the ſtrength of the magiſtrate is in the nation. The wiſdom, induſtry, and valour of a prince may add to the glory and greatneſs of a nation, but the foundation and ſubſtance will always be in itſelf. If the magiſtrate and people were upon equal terms, as Caius and Seius, receiving equal and mutual advantages from each other, no man could be judge of their differences, but ſuch as they ſhould ſet up for that end. This has been done by many nations. The antient Germans referred the deciſion of the moſt difficult matters to their prieſts: the Gauls and Britons to the Druids: the Mahometans for ſome ages to the califs of Babylon: the Saxons in England, when they had embraced the chriſtian religion, to their clergy. Whilſt all Europe lay under the popiſh ſuperſtition, the deciſion of ſuch matters was frequently aſſumed by the pope; men often ſubmitted to his judgment, and the princes that reſiſted were for the moſt part excommunicated, depoſed, and deſtroyed. All this was done for the ſame reaſons. Theſe men were accounted holy and inſpired, and the ſentence pronounced by them was uſually reverenced as the judgment of God, who was thought to direct them; and all thoſe who refuſed to ſubmit, were eſteemed execrable. But no man or number of men, as I think, at the inſtitution of a magiſtrate, did ever ſay, If any difference happen between you or your ſucceſſors and us, it ſhall be determined by yourſelf, or by them, whether they be men, women, children, mad, fooliſh, or vicious. Nay, if any ſuch thing had been, the folly, turpitude, and madneſs of ſuch a ſanction or ſtipulation muſt neceſſarily have deſtroyed it. But if no ſuch thing was ever known, or could have no effect, if it had been in any place, it is moſt abſurd to impoſe it upon all. The people therefore cannot be deprived of their natural rights upon a frivolous pretence to that which never was, and never can be. They who create magiſtracies, and give to them ſuch name, form, and power, as they think fit, do only know, whether the end for which they were created, be performed or not. They who give a being to the power which had none, can only judge whether it be employed to their welfare, or turned to their ruin They do not ſet up one or a few men, that they and their poſterity may live in ſplendor and greatneſs, but that juſtice may be adminiſtred, virtue eſtabliſhed, and proviſion made for the public ſafety. No wiſe man will think this can be done, if thoſe who ſet themſelves to overthrow the law, are to be their own judges. If Caligula, Nero, Vitellius, Domitian, or Heliogabalus, had been ſubject to no other judgment, they would have completed the deſtruction of the empire. If the diſputes between Durſtus, Evenus the Third, Dardanus, and other kings of Scotland, with the nobility and people,

people, might have been determined by themſelves, they had eſcaped the puniſhments they ſuffered, and ruined the nation as they deſigned. Other methods were taken; they periſhed by their madneſs; better princes were brought into their places, and their ſucceſſors were by their example admoniſhed to avoid the ways that had proved fatal to them. If Edward the Second of England, with Gaveſton and the Spencers, Richard the Second with Treſilian and Vere, had been permitted to be the judges of their own caſes, they who had murdered the beſt of the nobility, would have purſued their deſigns to the deſtruction of ſuch as remained, the enſlaving of the nation, the ſubverſion of the conſtitution, and the eſtabliſhment of a mere tyranny in the place of a mixed monarchy. But our anceſtors took better meaſures: they who had felt the ſmart of the vices and follies of their princes, knew what remedies were moſt fit to be applied, as well as the beſt time of applying them. They found the effects of extreme corruption in government to be ſo deſperately pernicious, that nations muſt neceſſarily periſh, unleſs it be corrected, and the ſtate reduced to its firſt principle, or altered. Which being the caſe, it was eaſy for them to judge, whether the governor, who had introduced that corruption, ſhould be brought to order, and removed if he would not be reclaimed; or whether he ſhould be ſuffered to ruin them and their poſterity, as it is for me to judge, whether I ſhould put away my ſervant, if I knew he intended to poiſon or murder me, and had a certain facility of accompliſhing his deſign; or whether I ſhould continue him in my ſervice till he had performed it. Nay, the matter is ſo much the more plain on the ſide of the nation, as the diſproportion of merit between a whole people, and one or a few men entruſted with the power of governing them, is greater than between a private man and his ſervant. This is ſo fully confirmed by the general conſent of mankind, that we know no government that has not frequently either been altered in form, or reduced to its original purity, by changing the families or perſons who abuſed the power with which they had been entruſted. Thoſe who have wanted wiſdom and virtue, rightly and ſeaſonably to perform this, have been ſoon deſtroyed; like the Goths in Spain, who, by omitting to curb the fury of Witza and Rodrigo in time, became a prey to the Moors. Their kingdom by this means deſtroyed was never reſtored, and the remainder of that nation, joining with the Spaniards, whom they had kept in ſubjection for three or four ages, could not in leſs than eight hundred years, expel thoſe enemies they might have kept out only by removing two baſe and vitious kings. Such nations as have been ſo corrupted, that when they have applied themſelves to ſeek remedies to the evils they ſuffered by wicked magiſtrates, could not fall upon ſuch as were proportionable to the diſeaſe, have only vented their paſſions in deſtroying the immediate inſtruments of their oppreſſion, or for a while delayed their utter ruin. But the root ſtill remaining, it ſoon produced the ſame poiſonous fruit, and either quite deſtroyed, or made them languiſh in perpetual miſery. The Roman empire was the moſt eminent example of the firſt; many of the monſters that had tyrannized over them were killed; but the greateſt advantage gained by their death, was a reſpit from ruin; and the

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government, which ought to have been eſtabliſhed by good laws, depending only upon the virtue of one man, his life proved to be no more than a lucid interval, and at his death they relapſed into the depth of infamy and miſery; and in this condition they continued till the empire was totally ſubverted.

All the kingdoms of the Arabians, Medes, Perſians, Moors, and others of the eaſt, are of the other ſort. Common ſenſe inſtructs them, that barbarous pride, cruelty, and madneſs grown to extremity, cannot be borne: but they have no other way than to kill the tyrant, and to do the like to his ſucceſſor, if he fall into the ſame crimes. Wanting that wiſdom and valour which is required for the inſtitution of a good government, they languiſh in perpetual ſlavery, and propoſe to themſelves nothing better than to live under a gentle maſter, which is but a precarious life, and little to be valued by men of bravery and ſpirit. But thoſe nations that are more generous, who ſet a higher value upon liberty, and better underſtand the ways of preſerving it, think it a ſmall matter to deſtroy a tyrant, unleſs they can alſo deſtroy the tyranny. They endeavour to do the work throughly, either by changing the government intirely, or reforming it according to the firſt inſtitution, and making ſuch good laws as may preſerve its integrity when reformed. This has been ſo frequent in all the nations (both antient and modern) with whoſe actions we are beſt acquainted, as appears by the foregoing examples, and many others that might be alledged, if the caſe were not clear, that there is not one of them which will not furniſh us with many inſtances; and no one magiſtracy now in being which does not owe its original to ſome judgment of this nature. So that they muſt either derive their right from ſuch actions, or confeſs they have none at all, and leave the nations to their original liberty of ſetting up thoſe magiſtracies which beſt pleaſe themſelves, without any reſtriction or obligation to regard one perſon or family more than another.

SECT. XLII.

The perſon that wears the crown cannot determine the affairs which the law refers to the king.

OUR author, with the reſt of the vulgar, ſeems to have been led into groſs errors by the form of writs ſummoning perſons to appear before the king. The common ſtyle uſed in the trial of delinquents; the name of the king's witneſſes given to thoſe who accuſe them; the verdicts brought in by juries, "coram domino rege;" and the proſecution made in the king's name; ſeem to have cauſed this. And they who underſtand not theſe phraſes, render the law a heap of the moſt groſs abſurdities, and the king an enemy to every one of his ſubjects, when he ought to be a father to them all; ſince without any particular conſideration or examination of what any witneſs depoſes in a court of juſtice, tending to the death,

death, confiſcation, or other puniſhment of any man, he is called the king's witneſs, whether he ſpeak the truth, or a lye, and on that account favoured. It is not neceſſary to alledge many inſtances in a caſe that is ſo plain; but it may not be amiſs to inſert two or three of the moſt important reaſons to prove my aſſertion. SECT. 42.

1. If the law did intend, that he or ſhe who wears the crown, ſhould in his or her perſon judge all cauſes, and determine the moſt difficult queſtions, it muſt, like our author, preſume that they will always be of profound wiſdom to comprehend all of them, and of perfect integrity always to act according to their underſtanding. Which is no leſs than to lay the foundation of the government upon a thing merely contingent, that either never was, or very often fails, as is too much verified by experience, and the hiſtories of all nations; or elſe to refer the deciſion of all to thoſe who through the infirmities of age, ſex, or perſon, are often uncapable of judging the leaſt, or ſubject to ſuch paſſions and vices as would divert them from juſtice, tho' they did underſtand it; both which ſeem to be almoſt equally prepoſterous.

2. The law muſt alſo preſume, that the prince is always preſent in all the places where his name is uſed. The king of France is (as I have ſaid already) eſteemed to be preſent " * on the ſeat of juſtice" in all the parliaments and ſovereign courts of the kingdom: and if his corporeal preſence were by that phraſe to be underſtood, he muſt be in all thoſe diſtinct and far diſtant places at the ſame time; which abſurdity can hardly be paralleled, unleſs by the popiſh opinion of " tran- " ſubſtantiation." But indeed they are ſo far from being guilty of ſuch monſtrous abſurdity, that he cannot in perſon be preſent at any tryal; and no man can be judged, if he be. This was plainly aſſerted to Lewis the XIIIth (who would have been at the tryal of the Duke of Candale) by the preſident de Bellievre, who told him, that as he could judge no man himſelf, ſo they could not judge any, if he were preſent: upon which he retired.

3. The laws of moſt kingdoms giving to kings the confiſcation of delinquents eſtates, if they in their own perſons might give judgment upon them, they would be conſtituted both judges and parties; which, beſides the forementioned incapacities, to which princes are as much ſubject as other men, would tempt them by their own perſonal intereſt to ſubvert all manner of juſtice.

This therefore not being the meaning of the law, we are to inquire what it is; and the thing is ſo plain, that we cannot miſtake, unleſs we do it wilfully. Some name muſt be uſed in all manner of tranſactions, and in matters of public concernment none can be ſo fit as that of the principal magiſtrate. Thus are leagues made, not only with kings and emperors, but with the dukes of Venice and Genoa, the avoyer and ſenate of a canton in Switzerland, the burgermaſter of an imperial town in Germany, and the ſtates-general of the United Provinces. But no man thinking, I preſume, theſe leagues would be of any value, if they could only oblige the perſons whoſe names are uſed, it is plain, that they do not ſtipulate only for

* Sur ſon lit de juſtice.

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for themſelves; and that their ſtipulations would be of no value, if they were merely perſonal. And nothing can more certainly prove, they are not ſo, than that we certainly know, theſe dukes, avoyers, and burgermaſters, can do nothing of themſelves. The power of the ſtates-general of the United Provinces is limited to the points mentioned in the act of union made at Utrecht. The empire is not obliged by any ſtipulation made by the emperor without their conſent. Nothing is more common than for one king, making a league with another, to exact a confirmation of their agreement, by the parliaments, diets, or general eſtates; becauſe, ſays Grotius, "a "prince does not ſtipulate for himſelf, but for the people under his "government; and a king deprived of his kingdom loſes the right of "ſending an ambaſſador." The powers of Europe ſhewed themſelves to be of this opinion in the caſe of Portugal. When Philip the Second had gained the poſſeſſion, they treated with him concerning the affairs relating to that kingdom: few regarded Don Antonio; and no man conſidered the dukes of Savoy, Parma, or Braganza, who perhaps had the moſt plauſible titles: but, when his grandſon Philip the Fourth had loſt that kingdom, and the people had ſet up the duke of Braganza, they all treated with him as king. And the Engliſh court, tho' then in amity with Spain, and not a little influenced by a Spaniſh faction, gave example to others by treating with him, and not with Spain, touching matters relating to that ſtate. Nay, I have been informed by thoſe who well underſtood the affairs of that time, that the lord Cottington adviſing the late king not to receive any perſons ſent from the duke of Braganza, rebel to his ally the king of Spain, in the quality of ambaſſadors; the king anſwered, that he muſt look upon that perſon to be king of Portugal, who was acknowledged by the nation. And I am miſtaken, if his majeſty now reigning did not find all the princes and ſtates of the world to be of the ſame mind, when he was out of his kingdom, and could oblige no man but himſelf, and a few followers, by any treaty he could make.

For the ſame reaſon the names of kings are uſed in treaties, when they are either children, or otherwiſe uncapable of knowing what alliances are fit to be made or rejected; and yet ſuch treaties do equally oblige them, their ſucceſſors and people, as if they were of mature age, and fit for government. No man therefore ought to think it ſtrange, if the king's name be uſed in domeſtic affairs, of which he neither ought nor can take any cognizance. In theſe caſes he is perpetually a minor: he muſt ſuffer the law to take its due courſe; and the judges, tho' nominated by him, are obliged by oath not to have any regard to his letters, or perſonal commands. If a man be ſued, he muſt appear; and a delinquent is to be tried "coram "rege," but no otherwiſe than "ſecundum legem terræ, according to the "law of the land," not his perſonal will or opinion. And the judgments given muſt be executed, whether they pleaſe him or not, it being always underſtood, that he can ſpeak no otherwiſe than the law ſpeaks, and is always preſent as far as the law requires. For this reaſon a noble lord, who was irregularly detained in priſon in 1681, being by habeas corpus brought to the bar of the king's bench, where he

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ſued to be releaſed upon bail; and an ignorant judge telling him he muſt apply himſelf to the king, he replied, that he came thither for that end; that the king might eat, drink, or ſleep, where he pleaſed; but when he rendered juſtice, he was always in that place. The king that renders juſtice is indeed always there: he never ſleeps; he is ſubject to no infirmity; he never dies, unleſs the nation be extinguiſhed, or ſo diſſipated as to have no government. No nation that has a ſovereign power within itſelf, does ever want this king. He was in Athens and Rome, as well as at Babylon and Suſa; and is as properly ſaid to be now in Venice, Switzerland, or Holland, as in France, Morocco, or Turky. This is he to whom we all owe a ſimple and unconditional obedience. This is he "who never does any wrong:" it is before him we appear, when we demand juſtice, or render an account of our actions. All juries give their verdict in his ſight: they are his commands that the judges are bound and ſworn to obey, when they are not at all to conſider ſuch as they receive from the perſon that wears the crown. It was for treaſon againſt him, that Treſilian, and others like to him in ſeveral ages, were hanged. They gratified the luſts of the viſible powers; but the inviſible king would not be mocked. He cauſed juſtice to be executed upon Empſon and Dudley. He was injured, when the perjured wretches, who gave that accurſed judgment in the caſe of ſhip-money, were ſuffered to eſcape the like puniſhment by means of the enſuing troubles, which they had chiefly raiſed. And I leave it to thoſe who are concerned, to conſider how many in our days may expect vengeance for the like crimes. SECT. 42.

I ſhould here conclude this point, if the power of granting a "noli proſequi, ceſſet proceſſus," and pardons, which are ſaid to be annexed to the perſon of the king, were not taken for a proof, that all proceedings at law depend upon his will. But whoever would from hence draw a general concluſion, muſt firſt prove his propoſition to be univerſally true. If it be wholly falſe, no true deduction can be made; and if it be true only in ſome caſes, it is abſurd to draw from thence a general concluſion; and to erect a vaſt fabric upon a narrow foundation is impoſſible. As to the general propoſition, I utterly deny it. The king cannot ſtop any ſuit that I begin in my own name, or invalidate any judgment I obtain upon it: he cannot releaſe a debt of ten ſhillings due to me, nor a ſentence for the like ſum given upon an action of battery, aſſault, treſpaſs, public nuiſance, or the like. He cannot pardon a man condemned upon an appeal, nor hinder the perſon injured from appealing. His power therefore is not univerſal: if it be not univerſal, it cannot be inherent, but conferred upon him, or entruſted by a ſuperior power, that limits it.

Theſe limits are fixed by the law: the law therefore is above him. His proceedings muſt be regulated by the law, and not the law by his will. Beſides, the extent of thoſe limits can only be known by the intention of the law that ſets them; and are ſo viſible, that none but ſuch as are wilfully blind can miſtake. It cannot be imagined, that the law, which does not give a power to the king of pardoning a man that breaks my hedge, can intend he ſhould have

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power to pardon one who kills my father, breaks my houſe, robs me of my goods, abuſes my children and ſervants, wounds me, and brings me in danger of my life. Whatever power he has in ſuch caſes, is founded upon a preſumption, that he who has ſworn not to deny or delay juſtice to any man, will not break his oath to interrupt it. And farther, as he does nothing but what he may rightly do, "cum "magnatum & ſapientium conſilio;" and that it is ſuppoſed, they will never adviſe him to do any thing, but what ought to be done, in order to attain the great ends of the law, juſtice, and the public ſafety; nevertheleſs, leſt this ſhould not be ſufficient to keep things in their due order, or that the king ſhould forget his oath, not to delay or deny juſtice to any man, his counſellors are expoſed to the ſevereſt puniſhments, if they adviſe him to do any thing contrary to it, and the law upon which it is grounded. So that the utmoſt advantage the king can pretend to in this caſe, is no more than that of the Norman, who ſaid he had gained his cauſe, becauſe it depended upon a point that was to be decided by his oath; that is to ſay, if he will betray the truſt repoſed in him, and perjure himſelf, he may ſometimes exempt a villain from the puniſhment he deſerves, and take the guilt upon himſelf. I ſay ſometimes; for appeals may be brought in ſome caſes, and the waterman who had been pardoned by his majeſty in the year 1680. for a murder he had committed, was condemned, and hanged, at the aſſizes upon an appeal. Nay, in caſes of treaſon, which ſome men think relate moſt particularly to the perſon of the king, he cannot always do it. Gaveſton, the two Spencers, Treſilian, Empſon, Dudley, and others, have been executed as traitors for things done by the king's command; and it is not doubted they would have been ſaved, if the king's power had extended ſo far. I might add the caſes of the earls of Strafford and Danby; for, tho' the king ſigned a warrant for the execution of the firſt, no man doubts he would have ſaved him, if it had been in his power. The other continues in priſon, notwithſtanding his pardon; and, for any thing I know, he may continue where he is, or come out in a way that will not be more to his ſatisfaction, unleſs he be found innocent, or ſomething fall out more to his advantage than his majeſty's approbation of what he has done. If therefore the king cannot interpoſe his authority to hinder the courſe of the law in conteſts between private men, nor remit the debts adjudged to be due, or the damages given to the perſons aggrieved, he can in his own perſon have no other power in things of this nature, than in ſome degree to mitigate the vindictive power of the law; and this alſo is to be exerciſed no other way than as he is entruſted. But if he acts, even in this capacity, by a delegated power, and in few caſes, he muſt act according to the ends for which he is ſo entruſted, as the ſame law ſays, "cum magnatum "& ſapientum conſilio;" and is not therein to purſue his own will and intereſts: if his oath farther oblige him not to do it; and his miniſters are liable to puniſhment, if they adviſe him otherwiſe; if in matters of appeal he have no power; and if his pardons have been of no value, when, contrary to his oath, he has abuſed that with which he is entruſted, to the patronizing of crimes, and exempting ſuch delinquents from puniſhment, as could not be pardoned without prejudice

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to the public; I may juſtly conclude, that the king, before whom every man is bound to appear, who does perpetually and impartially diſtribute juſtice to the nation, is not the man or woman that wears the crown; and that he or ſhe cannot determine thoſe matters, which, by the law, are referred to the king. Whether therefore ſuch matters are ordinary or extraordinary, the deciſion is and ought to be placed where there is moſt wiſdom and ſtability, and where paſſion and private intereſt does leaſt prevail to the obſtruction of juſtice. This is the only way to obviate that confuſion and miſchief, which our author thinks it would introduce. In caſes of the firſt ſort, this is done in England by judges and juries: in the other by the parliament, which, being the repreſentative body of the people, and the collected wiſdom of the nation, is leaſt ſubject to error, moſt exempted from paſſion, and moſt free from corruption, their own good, both public and private, depending upon the rectitude of their ſanctions. They cannot do any thing that is ill without damage to themſelves, and their poſterity; which being all that can be done by human underſtanding, our lives, liberties, and properties, are by our laws directed to depend upon them. SECT. 43.

SECT. XLIII.

Proclamations are not laws.

OUR author, according to his uſual method and integrity, lays great weight upon proclamations, as the ſignifications of the king's pleaſure, which in his opinion is our only law. But neither law nor reaſon openly directing, nor by conſequences inſinuating, that ſuch a power ſhould be put into an uncertain or ſuſpected hand, we may ſafely deny them to be laws, or in any ſenſe to have the effect of laws. Nay, they cannot be ſo much as ſignifications of his will; for, as he is king, he can have no will but as the law directs. If he depart from the law, he is no longer king, and his will is nothing to us. Proclamations, at moſt, are but temporary, by the advice of council, in purſuance of the law. If they be not ſo, the ſubject is no-way obliged to obey them, and the counſellors are to be puniſhed for them. Theſe laws are either immemorial cuſtoms, or ſtatutes. The firſt have their beginning and continuance from the univerſal conſent of the nation. The latter receive their authority and force of laws from parliaments, as is frequently expreſſed in the preambles. Theſe are, under God, the beſt defence of our lives, liberties, and eſtates: they proceed not from the blind, corrupt, and fluctuating humour of a man, but from the mature deliberation of the choiceſt perſons of the nation, and ſuch as have the greateſt intereſt in it. Our anceſtors have always relied upon theſe laws; and it is to be hoped we ſhall not be ſo abandoned by God, ſo deprived of courage and common ſenſe, to ſuffer ourſelves to be cheated of the inheritance which they have ſo frequently, ſo bravely, and ſo conſtantly defended.

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defended. Tho' experience has too well taught us, that parliaments may have their failings, and that the vices, which are induſtriouſly ſpread amongſt them, may be too prevalent; yet they are the beſt helps we have, and we may much more reaſonably depend upon them, than upon thoſe who propagate that corruption among them, for which only they can deſerve to be ſuſpected. We hope they will take care of our concernments, ſince they are as other men ſo ſoon as a ſeſſion is ended, and can do nothing to our prejudice that will not equally affect them, and their poſterity; beſides the guilt of betraying their country, which can never be waſhed off. If ſome ſhould prove falſe to their truſt, it is probable that others would continue in their integrity: or if the baſe arts, which are uſually practiſed by thoſe who endeavour to delude, corrupt, enſlave, and ruin nations, ſhould happen to prevail upon the youngeſt and weakeſt, it may be reaſonably hoped, that the wiſeſt will ſee the ſnares, and inſtruct their companions to avoid them. But if all things were ſo put into the hands of one man, that his proclamations were to be eſteemed laws, the nation would be expoſed to ruin, as ſoon as it ſhould chance to fall into an ill hand. It is in vain to ſay we have a good king, who will not make an ill uſe of his power; for even the beſt are ſubject to be deceived by flatterers, and crowned heads are almoſt ever encompaſſed by them. The principal art of a courtier is to obſerve his maſter's paſſions, and to attack him on that ſide where he ſeems to be moſt weak. It would be a ſtrange thing to find a man impregnable in every part; and, if he be not, it is impoſſible he ſhould reſiſt all the attempts that are made upon him. If his judgment come to be prepoſſeſſed, he and all that depend on him are loſt. Contradictions tho' never ſo juſt, are then unſafe; and no man will venture upon them, but he who dares ſacrifice himſelf for the public good. The nature of man is frail, and ſtands in need of aſſiſtance. Virtuous actions, that are profitable to a commonwealth, ought to be made, as far as it is poſſible, ſafe, eaſy, and advantageous; and it is the utmoſt imprudence, to tempt men to be enemies to the public, by making the moſt pernicious actions to be the means of obtaining honour and favour, whilſt no man can ſerve his country, but with the ruin of himſelf, and his family.

However, in this caſe, the queſtion is not concerning a perſon: the ſame counſels are to be followed, when Moſes or Samuel is in the throne, as if Caligula had invaded it. Laws ought to aim at perpetuity; but the virtues of a man die with him, and very often before him. Thoſe who have deſerved the higheſt praiſes for wiſdom and integrity, have frequently left the honours they enjoyed to fooliſh and vicious children. If virtue may in any reſpect be ſaid to outlive the perſon, it can only be when good men frame ſuch laws and conſtitutions as by favouring it preſerve themſelves. This has never been done otherwiſe, than by balancing the powers in ſuch a manner, that the corruption which one or a few men might fall into, ſhould not be ſuffered to ſpread the contagion to the ruin of the whole. The long continuance of Lycurgus's laws is to be attributed to this: they reſtrained the luſts of kings, and reduced thoſe to order who adventured to tranſgreſs them; whereas the whole fabric muſt have

fallen to the ground in a ſhort time, if the firſt that had a fancy to be abſolute, had been able to effect his deſign. This has been the fate of all governments that were made to depend upon the virtue of a man, which never continues long in any family; and, when that fails, all is loſt. The nations therefore that are ſo happy to have good kings, ought to make a right uſe of them, by eſtabliſhing the good that may outlaſt their lives. Thoſe of them that are good, will readily join in this work, and take care, that their ſucceſſors may be obliged, in doing the like, to be equally beneficial to their own families, and the people they govern. If the rulers of nations be reſtrained, not only the people is by that means ſecured from the miſchiefs of their vices and follies, but they themſelves are preſerved from the greateſt temptations to ill, and the terrible effects of the vengeance that frequently enſues upon it. An unlimited prince might be juſtly compared to a weak ſhip expoſed to a violent ſtorm, with a vaſt ſail, and no rudder. We have an eminent example of this in the book of Eſther. A wicked villain having filled the ears of a fooliſh king with falſe ſtories of the Jews, he iſſues out a proclamation for their utter extirpation; and not long after, being informed of the truth, he gave them leave by another proclamation to kill whom they pleaſed, which they executed upon ſeventy thouſand men. The books of Ezra, Nehemiah, and Daniel, manifeſtly diſcover the like fluctuation in all the councils of Nabuchodonoſor, Cyrus, Darius, and Artaxerxes. When good men had credit with them, they favoured the Iſraelites; ſent them back to their own country; reſtored the ſacred veſſels, that had been taken away; gave them all things neceſſary for the rebuilding of the city; and advanced the chief of them to the higheſt employments. But if they fell into ill hands, three juſt men muſt be thrown into the burning furnace for refuſing to worſhip an idol; Daniel muſt be caſt to the lions; the holy city eſteemed rebellious, and thoſe who endeavoured to rebuild it, enemies to kings. Such was the ſtate of things, when their proclamations paſſed for laws; and numbers of flattering ſlaves were ready to execute their commands, without examining whether they were juſt or unjuſt, good or bad. The life and death of the beſt men, together with the very being of nations, was expoſed to chance; and they were either preſerved or deſtroyed according to the humour of that man who ſpoke laſt to the king, or happened to have credit with him. If a frantic fancy come into the head of a drunken whore, Perſepolis muſt be burnt, and the hand of Alexander is ready to execute her will. If a dancing wench pleaſe Herod, the moſt venerable of all human heads muſt be offered in a diſh for a ſacrifice to the rage of her impure mother. The nature of man is ſo frail, that whereſoever the word of a ſingle perſon has had the force of a law, the innumerable extravagances and miſchiefs it has produced, have been ſo notorious, that all nations who are not ſtupid, ſlaviſh, and brutiſh, have always abominated it, and made it their principal care to find out remedies againſt it, by ſo dividing and balancing the powers of their government, that one or a few men might not be able to oppreſs and deſtroy thoſe they ought to preſerve and protect. This has always been as grateful to the beſt and wiſeſt

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princes, as neceſſary to the weakeſt and worſt, as I have proved already by the examples of Theopompus, Moſes, and many others. Theſe conſiderations have given beginning, growth, and continuance, to all the mixed governments that have been in the world; and I may juſtly ſay, there never was a good one that was not mixed. If other proofs of their rectitude were wanting, our author's hatred would be enough to juſtify them. He is ſo bitter an enemy to mankind, as to be diſpleaſed with nothing but that which tends to their good, and ſo perverſe in his judgment, that we have reaſon to believe that to be good, which he moſt abhors. One would think he had taken the model of the government he propoſes, from the monſtrous tyranny of Ceylon an iſland in the Eaſt-Indies, where the king knows no other law than his own will. He kills, tears in pieces, impales, or throws to his elephants, whomſoever he pleaſes: no man has any thing that he can call his own: he ſeldom fails to deſtroy thoſe who have been employed in his domeſtic ſervice, or public offices; and few obtain the favour of being put to death, and thrown to the dogs, without torments. His ſubjects approach him no otherwiſe, than on their knees, licking the duſt, and dare aſſume to themſelves no other name than that of dogs, or limbs of dogs. This is a true pattern of Filmer's Patriarchical monarch. His majeſty, as I ſuppoſe, is ſufficiently exalted; for he does whatever he pleaſes. The exerciſe of his power is as gentle as can reaſonably be expected from one who has all by the unqueſtionable right of uſurpation; and knows the people will no longer ſuffer him, and the villains he hires to be the inſtruments of his cruelty, than they can be kept in ſuch ignorance, weakneſs, and baſeneſs, as neither to know how to provide for themſelves, or dare to reſiſt him. We ought to eſteem ourſelves happy, if the like could be eſtabliſhed among us; and are much obliged to our author for ſo kindly propoſing an expedient that might terminate all our diſputes. Let proclamations obtain the power of laws, and the buſineſs is done. They may be ſo ingeniouſly contrived, that the antient laws, which we and our fathers have highly valued, ſhall be aboliſhed, or made a ſnare to all thoſe that dare remember they are Engliſhmen, and are guilty of the unpardonable crime of loving their country, or have the courage, conduct, and reputation required to defend it. This is the ſum of Filmer's philoſophy, and this is the legacy he has left to teſtify his affection to the nation; which having for a long time lain unregarded, has been lately brought into the light again, as an introduction of a popiſh ſucceſſor, who is to be eſtabliſhed, as we ought to believe, for the ſecurity of the proteſtant religion, and our Engliſh liberties. Both will undoubtedly flouriſh under a prince, who is made to believe the kingdom is his patrimony; that his will is a law; and that he has a power, which none may reſiſt. If any man doubt whether he will make a good uſe of it, he may only examine the hiſtories of what others in the ſame circumſtances have done in all places where they have had power. The principles of that religion are ſo full of meekneſs and charity; the popes have always ſhewed themſelves ſo gentle towards thoſe who would not ſubmit to their authority; the Jeſuits, who may be accounted the ſoul

ſoul that gives life to the whole body of the faction, are ſo well na- SECT. 43.
tured, faithful, and exact in their morals; ſo full of innocence, juſtice, and truth; that no violence is to be feared from ſuch as are governed by them. The fatherly care ſhewed to the proteſtants of France, by the five laſt kings of the houſe of Valois; the mercy of Philip the Second of Spain to his pagan ſubjects in the Weſt-Indies, and the more hated proteſtants in the Netherlands; the moderation of the dukes of Savoy towards the Vaudois in the marquiſate of Saluzzo and the vallies of Piedmont; the gentleneſs and faith of the two Maries queens of England and Scotland; the kindneſs of the papiſts to the proteſtants of Ireland in the year 1641. with what we have reaſon to believe they did and do ſtill intend, if they can accompliſh the ends of their conſpiracy; in a word, the ſweetneſs and apoſtolical meekneſs of the inquiſition; may ſufficiently convince us that nothing is to be feared where that principle reigns. We may ſuffer the word of ſuch a prince to be a law, and the people to be made to believe it ought to be ſo, when he is expected. Tho' we ſhould wave the bill of excluſion, and not only admit him to reign as other kings have done, but reſign the whole power into his hands, it would neither bring inconvenience or danger on the preſent king. He can with patience expect, that nature ſhould take her courſe, and would neither anticipate nor ſecure his entrance into the poſſeſſion of the power, by taking one day from the life of his brother. Tho' the papiſts know, that, like a true ſon of their church, he would prefer the advancement of their religion before all other conſiderations; and that one ſtab with a dagger, or a doſe of poiſon, would put all under his feet; not one man would be found among them to give it. The aſſaſſins were Mahometans, not pupils of the honeſt Jeſuits, nor ever employed by them. Theſe things being certain, all our concernments would be ſecure, if, inſtead of the fooliſh ſtatutes, and antiquated cuſtoms, on which our anceſtors and we have hitherto doted, we may be troubled with no law but the kings will, and a proclamation may be taken for a ſufficient declaration of it. We ſhall by this means be delivered from that "liberty with a miſchief," in which our miſtaken nation ſeems ſo much to delight. This phraſe is ſo new, and ſo peculiar to our author, that it deſerves to be written upon his tomb. We have heard of "tyranny with a miſchief, ſlavery and bondage with a miſchief;" and they have been denounced by God againſt wicked and perverſe nations, as miſchiefs comprehending all that is moſt to be abhorred and dreaded in the world. But Filmer informs us, that liberty, which all wiſe and good men have in all ages eſteemed to be the moſt valuable and glorious privilege of mankind, is "a miſchief." If he deſerve credit, Moſes, Joſhua, Gideon, Samſon, and Samuel, with others like them, were enemies to their country, in depriving the people of the advantages they enjoyed under the paternal care of Pharaoh, Adonibezek, Eglon, Jabin, and other kings of the neighbouring nations, and reſtoring them to that "liberty with a miſchief," which he had promiſed to them. The Iſraelites were happy under the power of tyrants, whoſe proclamations were laws; and they ought to have been thankful to God for that condition, and not for

for the deliverances he wrought by the hands of his ſervants. Subjection to the will of a man is happineſs, liberty is a "miſchief." But this is ſo abominably wicked and deteſtable, that it can deſerve no anſwer.

SECT. XLIV.

No people, that is not free, can ſubſtitute delegates.

HOW full ſoever the power of any perſon or people may be, he or they are obliged to give only ſo much to their delegates, as ſeems convenient to themſelves, or conducing to the ends they deſire to attain; but the delegate can have none, except what is conferred upon him by his principal. If therefore the knights, citizens, and burgeſſes, ſent by the people of England to ſerve in parliament, have a power, it muſt be more perfectly and fully in thoſe that ſend them. But (as was proved in the laſt ſection) proclamations, and other ſignifications of the king's pleaſure, are not laws to us. They are to be regulated by the law, not the law by them. They are to be conſidered only ſo far as they are conformable to the law, from which they receive all the ſtrength that is in them, and can confer none upon it. We know no laws but our own ſtatutes, and thoſe immemorial cuſtoms eſtabliſhed by the conſent of the nation; which may be, and often are, changed by us. The legiſlative power therefore, that is exerciſed by the parliament, cannot be conferred by the writ of ſummons, but muſt be eſſentially and radically in the people, from whom their delegates and repreſentatives have all that they have. But, ſays our author, "They muſt only chuſe, and truſt "thoſe whom they chuſe, to do what they liſt; and that is as much liberty "as many of us deſerve for our irregular elections of burgeſſes." This is ingeniouſly concluded: I take what ſervant I pleaſe, and, when I have taken him, I muſt ſuffer him to do what he pleaſes. But from whence ſhould this neceſſity ariſe? Why may not I take one to be my groom, another to be my cook, and keep them both to the offices for which I took them? What law does herein reſtrain my right? And if I am free in my private capacity to regulate my particular affairs according to my own diſcretion, and to allot to each ſervant his proper work, why have not I, with my aſſociates, the freemen of England, the like liberty of directing and limiting the powers of the ſervants we employ in our public affairs? Our author gives us reaſons proportionable to his judgment: "This were liberty with a miſ-"chief; and that of chuſing only is as much as many of us deſerve." I have already proved, that, as far as our hiſtories reach, we have had no princes or magiſtrates, but ſuch as we have made, and they have had no other power than what we have conferred upon them. They cannot be the judges of our merit, who have no power but what we gave them, thro' an opinion they did or might deſerve it. They may diſtribute in parcels to particulars that with which they are entruſted

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in the groſs. But it is impoſſible, that the public ſhould depend abſolutely upon thoſe who are nothing above other men, except what they are made to be, for and by the public. The reſtrictions therefore of the people's liberty muſt be from themſelves, or there can be none. SECT. 44.

Nevertheleſs I believe, that the powers of every county, city, and borough of England, are regulated by the general law to which they have all conſented, and by which they are all made members of one political body. This obliges them to proceed with their delegates in a manner different from that which is uſed in the United Netherlands, or in Switzerland. Amongſt theſe, every province, city, or canton, making a diſtinct body independent from any other, and exerciſing the ſovereign power within itſelf, looks upon the reſt as allies, to whom they are bound only by ſuch acts as they themſelves have made; and when any new thing, not comprehended in them happens to ariſe, they oblige their delegates to give them an account of it, and retain the power of determining thoſe matters in themſelves. It is not ſo amongſt us: every county does not make a diſtinct body, having in itſelf a ſovereign power, but is a member of that great body which comprehends the whole nation. It is not therefore for Kent or Suſſex, Lewis or Maidſtone, but for the whole nation, that the members choſen in thoſe places are ſent to ſerve in parliament: and tho' it be fit for them as friends and neighbours (ſo far as may be) to hearken to the opinions of the electors for the information of their judgements, and to the end that what they ſhall ſay, may be of more weight, when every one is known not to ſpeak his own thoughts only, but thoſe of a great number of men; yet they are not ſtrictly and properly obliged to give account of their actions to any, unleſs the whole body of the nation for which they ſerve, and who are equally concerned in their reſolutions, could be aſſembled. This being impracticable, the only puniſhment to which they are ſubject, if they betray their truſt, is ſcorn, infamy, hatred, and an aſſurance of being rejected, when they ſhall again ſeek the ſame honour. And tho' this may ſeem a ſmall matter to thoſe who fear to do ill only from a ſenſe of the pains inflicted; yet it is very terrible to men of ingenuous ſpirits, as they are ſuppoſed to be, who are accounted fit to be intruſted with ſo great powers. But why ſhould this be "liberty with a miſchief," if it were otherwiſe? Or how the liberty of particular ſocieties would be greater, if they might do what they pleaſed, than whilſt they ſend others to act for them, ſuch wiſe men only as Filmer can tell us. For as no man, or number of men, can give a power which he or they have not, the Achaians, Etolians, Latins, Samnites, and Tuſcans, who tranſacted all things relating to their aſſociations by delegates; and the Athenians, Carthaginians, and Romans, who kept the power of the ſtate in themſelves; were all equally free. And in our days, the United Provinces of the Netherlands, the Switſers, and Griſons, who are of the firſt ſort, and the Venetians, Genoeſes, and Luccheſes, who are of the other, are ſo alſo. All men that have any degree of common ſenſe, plainly ſee, that the liberty of thoſe who act in their

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own perſons, and for thoſe who ſend delegates, is perfectly the ſame, and the exerciſe is, and can only be, changed by their conſent.

But whatever the law or cuſtom of England be in this point, it cannot concern our queſtion. The general propoſition concerning a patriarchical power cannot be proved by a ſingle example. If there be a general power every-where, forbidding nations to give inſtructions to their delegates, they can do it no-where. If there be no ſuch thing, every people may do it, unleſs they have deprived themſelves of their right, all being born under the ſame condition. It is to no purpoſe to ſay, that the nations before-mentioned had not kings, and therefore might act as they did. For, if the general theſis be true, they muſt have kings; and, if it be not, none are obliged to have them, unleſs they think fit, and the kings they make are their creatures. But many of theſe nations had either kings, or other magiſtrates in power like to them. The provinces of the Netherlands, had dukes, earls, or marquiſes: Genoa and Venice have dukes. If any, on account of the narrowneſs of their territories, have abſtained from the name, it does not alter the caſe; for our diſpute is not concerning the name, but the right. If that one man, who is in the principal magiſtracy of every nation, muſt be reputed the father of that people, and has a power which may not be limited by any law, it imports not what he is called. But if in ſmall territories he may be limited by laws, he may be ſo alſo in the greateſt. The leaſt of men, is a man as well as a giant: and thoſe in the Weſt-Indies who have not above twenty or thirty ſubjects able to bear arms, are kings, as well as Xerxes. Every nation may divide itſelf into ſmall parcels, as ſome have done, by the ſame law they have reſtrained or aboliſhed their kings, joined to one another, or taken their hazard of ſubſiſting by themſelves; acted by delegation, or retaining the power in their own perſons; given finite or indefinite powers; reſerved to themſelves a power of puniſhing thoſe who ſhould depart from their duty, or referred it to their general aſſemblies. And that liberty, for which we contend as the gift of God and nature, remains equally to them all.

If men who delight in cavilling ſhould ſay, that great kingdoms are not to be regulated by the examples of ſmall ſtates, I deſire to know, when it was, that God ordained great nations ſhould be ſlaves, and deprived of all right to diſpoſe matters relating to their government; whilſt he left to ſuch as had, or ſhould divide themſelves into ſmall parcels, a right of making ſuch conſtitutions as were moſt convenient for them. When this is reſolved, we ought to be informed, what extent of territory is required to deſerve the name of a great kingdom. Spain and France are eſteemed great, and yet the deputies or procuradores of the ſeveral parts of Caſtile did in the cortez held at Madrid, in the beginning of Charles the Fifth's reign, excuſe themſelves from giving the ſupplies he deſired, becauſe they had received no orders in that particular from the towns that ſent them; and afterwards receiving expreſs order not to do it, they gave his majeſty a flat denial. The like was frequently done during the

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the reigns of that great prince, and of his ſon Philip the Second. SECT. 44.
And generally thoſe procuradores never granted any thing of importance to either of them, without particular orders from their principals. The ſame way was taken in France, as long as there were any general aſſemblies of eſtates; and, if it do not ſtill continue, it is becauſe there are none. For, no man who underſtood the affairs of that kingdom, did ever deny, that the deputies were obliged to follow the orders of thoſe who ſent them. And perhaps, if men would examine by what means they came to be aboliſhed, they might find, that the cardinals de Richelieu and Mazarin, with other miniſters who have accompliſhed that work, were acted by ſome other principle than that of juſtice, or the eſtabliſhment of the laws of God and nature. In the general aſſembly of eſtates held at Blois in the time of Henry the Third, Bodin then deputy for the third eſtate of Hiſt. Thuan.
Vermandois, by their particular order, propoſed ſo many things as took up a great part of their time. Other deputies alledged no other reaſon for many things ſaid and done by them, highly contrary to the king's will, than that they were commanded to do ſo by their ſuperiors. Theſe general aſſemblies being laid aſide, the ſame cuſtom is ſtill uſed in the leſſer aſſemblies of eſtates in Languedoc and Britany. The deputies cannot, without the infamy of betraying their truſt, and fear of puniſhment, recede from the orders given by their principals; and yet we do not find, that "liberty with a miſchief" is much more predominant in France than amongſt us. The ſame method is every day practiſed in the diets of Germany. The princes and great lords, who have their places in their own right, may do what they pleaſe: but the deputies of the cities muſt follow ſuch orders as they receive. The hiſtories of Denmark, Sweden, Poland, and Bohemia, teſtify the ſame thing: and if this "liberty with a miſchief" do not ſtill continue intire in all thoſe places, it has been diminiſhed by ſuch means as ſuit better with the manners of pirates, than the laws of God and nature. If England therefore do not ſtill enjoy the ſame, we muſt have been deprived of it either by ſuch unjuſtifiable means, or by our own conſent. But thanks be to God, we know no people who have a better right to liberty, or have better defended it, than our own nation. And if we do not degenerate from the virtue of our anceſtors, we may hope to tranſmit it intire to our poſterity. We always may, and often do, give inſtructions to our delegates; but the leſs we fetter them, the more we manifeſt our own rights: for thoſe who have only a limited power, muſt limit that which they give; but he that can give an unlimited power, muſt neceſſarily have it in himſelf. The great treaſurer Burleigh ſaid, the parliament could do any thing but turn a man into a woman. Sir Thomas More, when Rich ſolicitor to K. Henry the VIIIth aſked him, if the parliament might not make R. Rich king, ſaid, that was "caſus levis," taking it for granted that they might make or unmake whom they pleaſed. The firſt part of this, which includes the other, is aſſerted by the ſtatute of the 13th of Q. Elizabeth, denouncing the moſt grievous puniſhments againſt all ſuch as ſhould dare to contradict it. But if it be in the parliament, it muſt be in thoſe who give to parliament-

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men the powers by which they act; for before they are choſen, they have none, and can never have any, if thoſe that ſend them had it not in themſelves. They cannot receive it from the magiſtrate; for that power which he has, is derived from the ſame ſpring. The power of making and unmaking him cannot be from himſelf; for he that is not, can do nothing; and when he is made, can have no other power than is conferred upon him by thoſe that make him. He who departs from his duty, deſires to avoid the puniſhment; the power therefore of puniſhing him is not from himſelf. It cannot be from the houſe of peers, as it is conſtituted; for they act for themſelves, and are choſen by kings: and it is abſurd to think, that kings, who generally abhor all reſtriction of their power, ſhould give that to others by which they might be unmade. If one, or more princes, relying upon their own virtue and reſolutions to do good, had given ſuch a power againſt themſelves, as Trajan did, when he commanded the prefect to uſe the ſword for him, if he governed well; and againſt him, if he governed ill; it would ſoon have been reſcinded by their ſucceſſors. If our Edward the Firſt had made ſuch a law, his lewd ſon would have aboliſhed it, before he would have ſuffered himſelf to be impriſoned and depoſed by it. He would never have acknowledged his unworthineſs to reign, if he had been tied to no other law than his own will; for he could not tranſgreſs that; nor have owned the mercy of the parliament, in ſparing his life, if they had acted only by a power, which he had conferred upon them. This power muſt therefore be in thoſe, who act by a delegated power; and none can give it to their delegates, but they who have it in themſelves. The moſt certain teſtimony that can be given, of their unlimited power, is, that they rely upon the wiſdom and fidelity of their deputies, ſo as to lay no reſtrictions upon them: they may do what they pleaſe, if they take care, "ne quid detrimenti reſpublica accipiat, "that the commonwealth receive no detriment." This is a commiſſion, fit to be granted by wiſe and good men, to thoſe they chuſe through an opinion, that they are ſo alſo, and that they cannot bring any prejudice upon the nation, that will not fall upon themſelves, and their poſterity. This is alſo fit to be received by thoſe, who, ſeeking nothing, but that which is juſt in itſelf, and profitable to their country, cannot foreſee what will be propoſed when they are all together; much leſs, reſolve how to vote, till they hear the reaſons on both ſides. The electors muſt neceſſarily be in the ſame ignorance; and the law which ſhould oblige them to give particular orders to their knights and burgeſſes, in relation to every vote, would make the deciſion of the moſt important affairs to depend upon the judgment of thoſe, who know nothing of the matters in queſtion, and by that means caſt the nation into the utmoſt danger of the moſt inextricable confuſion. This can never be the intention of that law, which is "ſanctio "recta," and ſeeks only the good of thoſe that live under it. The foreſight therefore of ſuch a miſchief can never impair the liberties of the nation, but eſtabliſh them.

SECT.

SECT. XLV.

The legiſlative power is always arbitrary, and not to be truſted in the hands of any who are not bound to obey the laws they make.

IF it be objected, that I am a defender of arbitrary powers, I confeſs I cannot comprehend how any ſociety can be eſtabliſhed or ſubſiſt without them; for the eſtabliſhment of government is an arbitrary act, wholly depending upon the will of men. The particular forms and conſtitutions, the whole ſeries of the magiſtracy, together with the meaſure of power given to every one, and the rules by which they are to exerciſe their charge, are ſo alſo. Magna Charta, which comprehends our antient laws, and all the ſubſequent ſtatutes, were not ſent from heaven, but made according to the will of men. If no men could have a power of making laws, none could ever have been made; for all that are or have been in the world, except thoſe given by God to the Iſraelites, were made by them; that is, they have exerciſed an arbitrary power in making that to be law which was not, or annulling that which was. The various laws and governments, that are or have been in ſeveral ages and places, are the product of various opinions in thoſe who had the power of making them. This muſt neceſſarily be, unleſs a general rule be ſet to all; for the judgments of men will vary, if they are left to their liberty; and the variety that is found among them, ſhews they are ſubject to no rule but that of their own reaſon, by which they ſee what is fit to be embraced or avoided, according to the ſeveral circumſtances under which they live. The authority that judges of theſe circumſtances is arbitrary, and the legiſlators ſhew themſelves to be more or leſs wiſe and good, as they do rightly, or not rightly, exerciſe this power. The difference therefore between good and ill governments is not, that thoſe of one ſort have an arbitrary power which the others have not; for they all have it; but that thoſe which are well conſtituted, place this power ſo as it may be beneficial to the people, and ſet ſuch rules as are hardly to be tranſgreſſed; whilſt thoſe of the other ſort fail in one or both theſe points. Some alſo through want of courage, fortune, or ſtrength, may have been oppreſſed by the violence of ſtrangers, or ſuffer'd a corrupt party to riſe up within themſelves, and by force or fraud to uſurp a power of impoſing what they pleaſed. Others, being ſottiſh, cowardly, and baſe, have ſo far erred in the foundations, as to give up themſelves to the will of one or few men, who, turning all to their own profit or pleaſure, have been juſt in nothing but in uſing ſuch a people like beaſts. Some have placed weak defences againſt the luſts of thoſe they have advanced to the higheſt places, and given them opportunities of arrogating more power to themſelves than the law allows.

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Where any of theſe errors are committed, the government may be eaſy for a while, or at leaſt tolerable, whilſt it continues uncorrupted; but it cannot be laſting. When the law may be eaſily or ſafely overthrown, it will be attempted. Whatever virtue may be in the firſt magiſtrates, many years will not paſs before they come to be corrupted; and their ſucceſſors, deflecting from their integrity, will ſeize upon the ill-guarded prey. They will then not only govern by will, but by that irregular will, which turns the law, that was made for the public good, to the private advantage of one or few men. 'Tis not my intention to enumerate the ſeveral ways that have been taken to effect this; or to ſhew what governments have deflected from the right, and how far. But I think I may juſtly ſay, that an arbitrary power was never well placed in any men, and their ſucceſſors, who were not obliged to obey the laws they ſhould make. This was well underſtood by our Saxon anceſtors: they made laws in their aſſemblies and councils of the nation; but all thoſe who propoſed or aſſented to thoſe laws, as ſoon as the aſſembly was diſſolved, were comprehended under the power of them, as well as other men. They could do nothing to the prejudice of the nation, that would not be as hurtful to thoſe who were preſent, and their poſterity, as to thoſe who by many accidents might be abſent. The Normans entered into, and continued in the ſame path. Our parliaments at this day are in the ſame condition. They may make prejudicial wars, ignominious treaties, and unjuſt laws: yet when the ſeſſion is ended, they muſt bear the burden as much as others; and, when they die, the teeth of their children will be ſet on edge with the ſour grapes they have eaten. But 'tis hard to delude or corrupt ſo many: men do not in matters of the higheſt importance yield to ſlight temptations. No man ſerves the devil for nothing: ſmall wages will not content thoſe who expoſe themſelves to perpetual infamy, and the hatred of a nation for betraying their country. Our kings had not wherewithal to corrupt many till theſe laſt twenty years, and the treachery of a few was not enough to paſs a law. The union of many was not eaſily wrought, and there was nothing to tempt them to endeavour it; for they could make little advantage during the ſeſſion, and were to be loſt in the maſs of the people, and prejudiced by their own laws, as ſoon as it was ended. They could not in a ſhort time reconcile their various intereſts or paſſions, ſo as to combine together againſt the public; and the former kings never went about it. We are beholden to Hyde, Clifford and Danby, for all that has been done of that kind. They found a parliament full of lewd young men choſen by a furious people in ſpite to the puritans, whoſe ſeverity had diſtaſted them. The weakeſt of all miniſters had wit enough to underſtand, that ſuch as theſe might be eaſily deluded, corrupted, or bribed. Some were fond of their ſeats in parliament, and delighted to domineer over their neighbours by continuing in them: others preferred the cajoleries of the court before the honour of performing their duty to the country that employ'd them. Some ſought to relieve their ruined fortunes, and were moſt forward to give the king a vaſt revenue, that

that from thence they might receive penſions: others were glad of a temporary protection againſt their creditors. Many knew not what they did when they annulled the triennial act; voted the militia to be in the king; gave him the exciſe, cuſtoms, and chimney-money; made the act for corporations, by which the greateſt part of the nation was brought under the power of the worſt men in it; drunk or ſober paſs'd the five-mile act, and that for uniformity in the church. This embolden'd the court to think of making parliaments to be the inſtruments of our ſlavery, which had in all ages paſt been the firmeſt pillars of our liberty. There might have been perhaps a poſſibility of preventing this pernicious miſchief in the conſtitution of our government. But our brave anceſtors could never think their poſterity would degenerate into ſuch baſeneſs to ſell themſelves, and their country: but how great ſoever the danger may be, 'tis leſs than to put all into the hands of one man, and his miniſters: the hazard of being ruined by thoſe who muſt periſh with us, is not ſo much to be feared, as by one who may enrich and ſtrengthen himſelf by our deſtruction. 'Tis better to depend upon thoſe who are under a poſſibility of being again corrupted, than upon one who applies himſelf to corrupt them, becauſe he cannot otherwiſe accompliſh his deſigns. It were to be wiſhed, that our ſecurity were more certain; but this being, under God, the beſt anchor we have, it deſerves to be preſerved with all care, till one of a more unqueſtionable ſtrength be framed by the conſent of the nation. SECT. 46.

SECT. XLVI.

The coercive power of the law proceeds from the authority of parliament.

HAVING proved that proclamations are not laws, and that the legiſlative power, which is arbitrary, is truſted only in the hands of thoſe who are bound to obey the laws that are made, 'tis not hard to diſcover what it is that gives the power of law to the ſanctions under which we live. Our author tells us, "that all ſtatutes "or laws are made properly by the king alone, at the rogation of the "people, as his majeſty king James of happy memory affirms in his true "law of free monarchy; and as Hooker teaches us, that laws do not take "their conſtraining power from the quality of ſuch as deviſe them, but "from the power that giveth them the ſtrength of law." But if the rogation of the people be neceſſary, that cannot be a law which proceeds not from their rogation: the power therefore is not alone in the king; for a moſt important part is confeſſed to be in the people. And as none could be in them, if our author's propoſition, or the principles upon which it is grounded, were true, the acknowledgment of ſuch a part to be in the people ſhews them to be falſe. For if the king had all in himſelf, none could participate with him: if any do participate,

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ticipate, he hath not all; and 'tis from that law by which they do participate, that we are to know what part is left to him. The preambles of moſt acts of parliaments manifeſt this by the words, "Be it "enacted by the lords ſpiritual and temporal, and commons, in parlia-"ment aſſembled, and by authority of the ſame." But king James, ſays Filmer, "in his law of free monarchy, affirms the contrary:" and it may be ſo; yet that is nothing to us. No man doubts, that he deſired it might be ſo in England: but it does not from thence appear, that it is ſo. The law of a free monarchy is nothing to us; for that monarchy is not free, which is regulated by a law not to be broken without the guilt of perjury, as he himſelf confeſſed in relation to ours. As to the words cited from Hooker, I can find no hurt in them. To draw up the form of a good law, is a matter of invention and judgment; but it receives the force of a law from the power that enacts it. We have no other reaſon for the payment of exciſe or cuſtoms, than that the parliament has granted theſe revenues to the king to defray the public charges. Whatever therefore king James was pleaſed to ſay in his books, or in thoſe written for him, we do not ſo much as know that the killing of a king is treaſon, or to be puniſhed with death, otherwiſe than as it is enacted by parliament; and it was not always ſo: for, in the time of Ethelſtan, the eſtimates of lives were agreed in parliament, and that of a king valued at thirty thouſand thrymſæ. And, if that law had not been altered by the parliament, it muſt have been in force at this day. It had been in vain for a king to ſay he would have it otherwiſe; for he is not created to make laws, but to govern according to ſuch as are made, and ſworn to aſſent to "* ſuch as ſhall be propoſed." He who thinks the crown not worth accepting on theſe conditions, may refuſe it. The words "le roy le veult," are only a pattern of the French faſhions, upon which ſome kings have laid great ſtreſs, and would no doubt have been glad to introduce, "car tel eſt noſtre plaiſir;" but that may prove a difficult matter. Nay, in France itſelf, where that ſtyle, and all the ranting expreſſions that pleaſe the vaineſt of men, are in mode, no edict has the power of a law, till it be regiſtred in parliament. This is not a mere ceremony, as ſome pretend, but all that is eſſential to a law. Nothing has been more common, than for thoſe parliaments to refuſe edicts ſent to them by the king. When John Chaſtel had, at the inſtigation of the Jeſuits, ſtabbed Henry the Fourth in the mouth, and that order had deſigned or executed many other execrable crimes, they were baniſhed out of the kingdom by an arreſt of the parliament of Paris. Some other parliaments regiſtred the ſame; but thoſe of Thoulouſe and Bordeaux abſolutely refuſed; and, notwithſtanding all that the king could do, the Jeſuits continued at Tournon, and many other places within their precincts, till the arreſt was revoked. Theſe proceedings are ſo diſpleaſing to the court, that the moſt violent ways have been often uſed to aboliſh them. About the year 1650. Seguier then chancellor of France was ſent with a great number of ſoldiers to oblige the parliament of Paris to paſs

Speech in ſtar-chamber, 1616.

Leg. Æthelſtani, fol. 71.

Mem. de L. R. F.

* Quas vulgus elegerit.

ſome

ſome edicts upon which they had heſitated: but he was ſo far from accompliſhing his deſign, that the people roſe againſt him, and he thought himſelf happy, that he eſcaped with his life. If the parliaments do not in all parts of the kingdom continue in the liberty of approving or rejecting all edicts, the law is not altered, but oppreſſed by the violence of the ſword: and the prince of Condé, who was principally employed to do that work, may, as I ſuppoſe, have had leiſure to reflect upon thoſe actions, and cannot but find reaſon to conclude, that his excellent valour and conduct was uſed in a moſt noble exploit, equally beneficial to his country and himſelf. However, thoſe who are ſkilled in the laws of that nation, do ſtill affirm, that all public acts, which are not duly examined and regiſtred, are void in themſelves, and can be of no force longer than the miſerable people lies under the violence of oppreſſion; which is all that could reaſonably be ſaid, if a pirate had the ſame power over them. But whether the French have willingly offered their ears to be bored, or have been ſubdued by force, it concerns us not. Our liberties depend not upon their will, virtue, or fortune: how wretched and ſhameful ſoever their ſlavery may be, the evil is only to themſelves. We are to conſider no human laws but our own; and if we have the ſpirit of our anceſtors we ſhall maintain them, and die as free as they left us. "Le roy le veut," tho' written in great letters, or pronounced in the moſt tragical manner, can ſignify no more than that the king in performance of his oath does aſſent to ſuch laws as the lords and commons have agreed. Without prejudice to themſelves, and their liberties, a people may ſuffer the king to adviſe with his council upon what they propoſe. Two eyes ſee more than one, and human judgment is ſubject to errors. Tho' the parliament conſiſt of the moſt eminent men of the nation, yet, when they intend good, they may be miſtaken. They may ſafely put a check upon themſelves, that they may farther conſider the moſt important matters, and correct the errors that may have been committed, if the king's council do diſcover them: but he can ſpeak only by the advice of his council; and every man of them is with his head to anſwer for the advices he gives. If the parliament has not been ſatisfied with the reaſons given againſt any law that they offered, it has frequently paſſed; and if they have been ſatisfied, it was not the king, but they, that laid it aſide. He that is of another opinion, may try whether "Le roy le veut" can give the force of a law to any thing conceived by the king, his council, or any other than the parliament. But if no wiſe man will affirm that he can do it, or deny that by his oath he is obliged to aſſent to thoſe that come from them, he can neither have the legiſlative power in himſelf, nor any other part in it than what is neceſſarily to be performed by him, as the law preſcribes.

SECT. 46.

I know not what our author means by ſaying, "Le roy le veut is "the interpretative phraſe pronounced at the paſſing of every act of par- "liament:" for, if there be difficulty in any of them, thoſe words do no-way remove it. But the following part of the paragraph better deſerves to be obſerved. "It was, ſays he, the antient cuſtom for a "long time, until the days of Henry the fifth, for the kings, when any

CHAP. III.

" bill was brought to them that had paſſed both houſes, to take, and " pick out what they liked not; and ſo much as they choſe, was enacted " as a law: but the cuſtom of the latter kings hath been ſo gracious, as " to allow always of the intire bill, as it paſſed both houſes." He judiciouſly obſerves, when our kings began to be gracious, and we to be free. That king (excepting the perſecution for religion, in his time, which is rather to be imputed to the ignorance of that age, than to any evil in his own nature) governed well; and, as all princes, who have been virtuous and brave, have always deſired to preſerve their ſubjects liberty, which they knew to be the mother and nurſe of their valour, fitting them for great and generous enterprizes; his care was to pleaſe them, and to raiſe their ſpirits. But, about the ſame time, thoſe deteſtable arts, by which the mixed monarchies in this part of the world have been every-where terribly ſhaken, and in many places totally overthrown, began to be practiſed. Charles the ſeventh of France, under pretence of carrying on a war againſt him and his ſon, took upon him to raiſe money, by his own authority; and we know how well that method has been purſued. The miſchievous ſagacity of his ſon Lewis the Eleventh, which is now called king-craft, was wholly exerted in the ſubverſion of the laws of France, and the nobility that ſupported them. His ſucceſſors, except only Lewis the Twelfth, followed his example; and in other nations, Ferdinand of Arragon, James the Third of Scotland, and Henry the Seventh of England, were thought to imitate him the moſt. Tho' we have little reaſon to commend all the princes that preceded Henry the Fifth; yet I am inclined to date the general impairing of our government from the death of that king, and his valiant brothers. His weak ſon became a prey to a furious Frenchwoman, who brought the maxims of her own country into ours, and advanced the worſt of villains to govern according to them. Theſe meaſures were purſued by Edward the Fourth, whoſe wants, contracted by prodigality and debauchery, were to be ſupplied by fraud and rapine. The ambition, cruelty, and perfidiouſneſs of Richard the Third; the covetouſneſs, and malicious ſubtilty, of Henry the Seventh; the violent luſt, rage, and pride of Henry the Eighth; and the bigotted fury of queen Mary, inſtigated by the craft and malice of Spain; perſuaded me to believe, that the Engliſh liberty did not receive birth or growth from the favour and goodneſs of their gracious princes. But, it ſeems, all this is miſtaken: Henry the Sixth was wiſe, valiant, and no-way guided by his wife; Edward the Fourth, continent, ſober, and contented with what the nation gave him; Richard the Third, mild, gentle, and faithful; Henry the Seventh, ſincere, and ſatisfied with his own; Henry the Eighth, humble, temperate, and juſt; and queen Mary, a friend to our country and religion. No leſs praiſes ſure can be due to thoſe who were ſo gracious to recede from their own right of picking what they pleaſed out of our laws, and to leave them intirely to us, as they paſſed both houſes. We are beholden to our author for the diſcovery of theſe myſteries: but tho' he ſeems to have taken an oath, like that of the gypſies when they enter into that virtuous ſociety, never to ſpeak one word of truth, he is not ſo ſubtle in concealing his lyes. All kings were truſted with

with the publication of the laws; but all kings did not falſify them. Such as were not wicked and vicious, or ſo weak as to be made ſubſervient to the malice of their miniſters and flatterers, could never be drawn into the guilt of ſo infamous a cheat, directly contrary to the oath of their coronation. They ſwear to paſs ſuch "laws * as "the people chuſe;" but, if we will believe our author, they might have picked out whatever they pleaſed, and falſly impoſed upon the nation, as a law made by the lords and commons, that which they had modelled according to their own will, and made to be different from, or contrary to, the intention of the parliament. The king's part in this fraud (of which he boaſts) was little more than might have been done by the ſpeaker, or his clerks. They might have falſified an act as well as the king, tho' they could not ſo well preſerve themſelves from puniſhment. 'Tis no wonder, if, for a while, no ſtop was put to ſuch an abominable cuſtom. It was hard to think a king would be guilty of a fraud, that were infamous in a ſlave: but that proved to be a ſmall ſecurity, when the worſt of ſlaves came to govern them. Nevertheleſs, it is probable they proceeded cautiouſly: the firſt alterations were, perhaps, innocent, or, it may be, for the beſt. But, when they had once found out the way, they ſtuck at nothing that ſeemed for their purpoſe. This was like the plague of leproſy, that could not be cured; the houſe infected was to be demoliſhed; the poiſonous plant muſt be torn up by the root; the truſt that had been broken, was to be aboliſhed; they who had perverted or fruſtrated the law, were no longer to be ſuffered to make the leaſt alteration; and that brave prince readily joined with his people, to extinguiſh the miſchievous abuſe that had been introduced by ſome of his worthleſs predeceſſors. The worſt and baſeſt of them had continual diſputes with their parliaments, and thought that whatever they could detract from the liberty of the nation, would ſerve to advance their prerogative. They delighted in frauds, and would have no other miniſters, but ſuch as would be the inſtruments of them. Since their word could not be made to paſs for a law, they endeavoured to impoſe their own, or their ſervants inventions, as acts of parliaments, upon the deluded people, and to make the beſt of them ſubſervient to their corrupt ends, and pernicious counſels. This, if it had continued, might have overthrown all our rights, and deprived us of all that men can call good in the world. But the providence of God furniſhed our anceſtors with an opportunity of providing againſt ſo great, ſo univerſal a miſchief. They had a wiſe and valiant prince, who ſcorned to encroach upon the liberties of his ſubjects, and abhorred the deteſtable arts, by which they had been impaired. He eſteemed their courage, ſtrength, and love, to be his greateſt advantage, riches, and glory. He aimed at the conqueſt of France, which was only to be effected by the bravery of a free and well-ſatisfied people. Slaves will always be cowards, and enemies to their maſter: by bringing his ſubjects into that condition, he muſt infallibly have ruined his own

SECT. 46.

* Quas vulgus elegerit.

deſigns,

CHAP. III. deſigns, and made them unfit to fight, either for him or themſelves. He deſired, not only that his people ſhould be free, during his time, but that his ſucceſſors ſhould not be able, by oblique and fraudulent ways, to enſlave them. If it be a reproach to us, that women have reigned over us, it is much more to the princes that ſucceeded our Henry, that none of them did ſo much imitate him in his government, as queen Elizabeth. She did not go about to mangle acts of parliament, and to pick out what might ſerve her turn; but frequently paſſed forty or fifty in a ſeſſion, without reading one of them. She knew that ſhe did not reign for herſelf, but for her people; that what was good for them, was either good for her, or that her good ought not to come into competition with that of the whole nation; and that ſhe was, by oath, obliged to paſs ſuch laws, as were preſented to her on their behalf. This not only ſhews, that there is no ſuch thing as a legiſlative power, placed in kings by the laws of God and nature, but that nations have it in themſelves. It was not by law, nor by right, but by uſurpation, fraud, and perjury, that ſome kings took upon them to pick what they pleaſed out of the public acts. Henry the Fifth did not grant us the right of making our own laws; but, with his approbation, we aboliſhed a deteſtable abuſe, that might have proved fatal to us. And, if we examine our hiſtory, we ſhall find, that every good and generous prince has ſought to eſtabliſh our liberties, as much as the moſt baſe and wicked to infringe them.

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